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6

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

MIAMI, FL

WHEN: April 18:
1st Session 9:00 am to 12 noon.
2nd Session 1:30 pm to 4:30 pm
WHERE: 51 Southwest First Avenue
Room 914
Miami, FL
RESERVATIONS: 1–800–347–1997

CHICAGO, IL

WHEN: April 25, at 9:00 am
WHERE: 219 S. Dearborn Street
Conference Room 1220
Chicago, IL
RESERVATIONS: 1–800–366–2998

WASHINGTON, DC

WHEN: May 23, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
RESERVATIONS: 202–523–5240 (voice); 202–523–5229 (TDD)

NOTE: There will be a sign language interpreter for hearing impaired persons at the May 23, Washington, DC briefing.

Contents

Federal Register
Vol. 56, No. 66
Friday, April 5, 1991

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 56, No. 66
Friday, April 5, 1991

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegation of Authority by the Secretary of Agriculture for Adjudication of Sourcing Area Applications Pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: This rule amends 7 CFR 2.41 by delegating to the Office of Administrative Law Judges the Secretary's authority to make the final decisions regarding sourcing area applications submitted pursuant to the statutory deadline in the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620, *et seq.*) ("Act"). The decisions issued by the Office of Administrative Law Judges regarding sourcing area applications shall be the final decisions of the Secretary. The Office of Administrative Law Judges shall preside at the taking of evidence and make the final decision of the agency, in accordance with 5 U.S.C. 556 and 557, and Reorganization Plan No. 2 of 1953 (7 U.S.C. 2201, note).

The Forest Resources Conservation and Shortage Relief Act of 1990 (the Act) prohibits the export of unprocessed Federal timber west of the 100th meridian in the 48 contiguous States and the substitution of such unprocessed Federal timber for unprocessed private timber from the west that is exported. The Act allows a person with an approved sourcing area to export unprocessed private timber outside of the sourcing area while purchasing Federal timber within the sourcing area. The Act states that the Secretary shall approve or disapprove sourcing areas on the record and after an opportunity for a hearing. Therefore, formal adjudication is required under of the Administrative Procedure Act. The Act requires the determinations on sourcing area applications to be made shortly after enactment. For reasons of efficiency, decisions issued by the Office of Administrative Law Judges shall be the final decisions of the Secretary.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, Research & Operations Division, Office of the General Counsel, United States Department of Agriculture, room 2319, South Building, 14th and Independence Avenue SW., Washington, DC 20250–1400. Telephone: (202) 447–6035.

SUPPLEMENTARY INFORMATION: The Act, enacted August 20, 1990, prohibits both the export of unprocessed Federal logs originating west of the 100th meridian in the contiguous 48 States and the substitution of such unprocessed Federal logs for unprocessed private logs originating west of the 100th meridian in the contiguous 48 States that are exported.

The Act exempts persons with approved "sourcing areas" from the prohibition against substitution in certain circumstances. A sourcing area is the area from which an owner/manufacturer of logs supplies logs for his or her mill. To be approved, a sourcing area must be geographically and economically separate from any geographic area where the person harvests private timber for export. A person with an approved "sourcing area" may export unprocessed private logs from outside of the sourcing area, while continuing to purchase Federal logs within the sourcing area. Private logs from within the sourcing area may not be exported.

Section 490(c) of the Act requires "sourcing area" applicants to have submitted their applications to the Secretary four months after the date of enactment (December 20, 1990). Section 490(c) also states that the Secretary is to approve or disapprove the application, "on the record and after an opportunity for a hearing" four months thereafter. Section 554 of title 5, United States Code requires a formal adjudicatory process when a statute requires a determination to be made "on the record and after opportunity for an agency hearing." This rule amends 7 CFR 2.41 by delegating to the Office of Administrative Law Judges the authority to make the final decisions on sourcing area applications submitted pursuant to the statutory deadline in 16 U.S.C. 620b. An Administrative Law Judge shall preside at the taking of evidence in accordance with 5 U.S.C. 556 and 557 and 76 CFR 2.41, and make the final decision, as authorized by Reorganization Plan No. 2 of 1953.

This delegation provides an exception to the Secretary's delegation at 7 CFR 2.35 that delegates the Secretary's authority to make a final decision to a Judicial Officer, and paragraph (a) of 7 CFR 2.41 that allows an appeal from a decision by an Administrative Law Judge to the Judicial Officer. For reasons of efficiency, the Secretary is delegating his authority to make the final decision so that the decision of the Administrative Law Judge is final. Therefore, an Administrative Law Judge will preside over the taking of evidence and issue the final decision of the Secretary.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice, and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined in Public Law No. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Delegations of authority (Government agencies).

Therefore, for the reasons set forth in the preamble, part 2 of title 7 of the Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart D—Delegation of Authority to Other General Officers and Agency Heads

2. Amend § 2.41 by adding paragraph (c) to read as follows:

§ 2.41 Designation to the Office of Administrative Law Judges.

* * * * *

(c) Notwithstanding the provisions of § 2.35 of this title and paragraph (a) of this section, there is delegated to the Office of Administrative Law Judges the authority to preside at the taking of the evidence and to issue the final decisions under the Forest Resource Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620 *et seq.*) with regard to sourcing area applications submitted pursuant to the statutory deadline.

Signed in Washington, DC on April 3, 1991.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 91-8147 Filed 4-4-91; 8:45 am]

BILLING CODE 3410-14-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-ANE-14; Amdt. 39-6925]

Airworthiness Directives; Aviatech Inc., TSO-C39a, Pilot/Co-Pilot Seats Model 394 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Aviatech Inc., TSO-C39a, pilot/co-pilot flightcrew seats Model 394 series, which requires that the seats be modified to include rollers in the shoulder harness guide and the installation of modified backseat cushion covers. This amendment is prompted by reports of pilot and co-pilot shoulder harnesses which were worn and frayed beyond acceptable limits. This condition, if not corrected, could result in failure of the shoulder harness.

DATES: Effective May 6, 1991.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of May 6, 1991.

ADDRESSES: The applicable service bulletin may be obtained from Aviatech Inc., 2400 Guenette Street, St. Laurent, Quebec, Canada H4R 2H2; telephone (514) 335-0166, or may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, Docket No. 90-ANE-14, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, New York Aircraft Certification Office, ANE-173, FAA, Engine & Propeller Directorate, Aircraft Certification Service, ANE-170, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581, telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (FAR) to include an airworthiness directive applicable to Aviatech Inc., TSO-C39a, pilot/co-pilot seats Model 394 series, which requires that the seats be modified to include rollers in the shoulder harness guide and the installation of modified backseat cushion covers, was published in the **Federal Register** on July 6, 1990 (55 FR 27826).

Interested persons have been afforded an opportunity to participate in the making of this amendment, and to submit comments. No comments were received in response to the proposal.

The FAA has determined that air safety and public interest require the adoption of the rule as proposed.

There are approximately 350 pilot/co-pilot seats of this model that will be affected by this AD. It is estimated that it will take approximately 2½ manhours per seat to accomplish the required modifications and that the average labor cost will be $40 per manhour. The modification kits are available from the manufacturer at a cost of $834.11 per seat. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $326,938.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities, under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aviatech Inc.: Applies to Aviatech Inc., TSO-C39a Pilot and Co-Pilot seats Model 394 series as follows: Affected Pilot and Co-Pilot seats Part Numbers (P/N), 394-(000) -01, -02, -03, -04, -05, -06, and 394-(001) -01, -02, -03, -04, -05, -06, installed on, but not limited to, Boeing of Canada, Ltd., deHavilland Division, Model DHC-8.

Compliance is required within the next 90 days after the effective date of this AD, unless already accomplished.

To prevent the pilot and co-pilot shoulder harness from becoming excessively worn and frayed, which could result in failure of the shoulder harness, accomplish the following:

(a) Inspect the pilot and co-pilot seats to determine if any of the above P/N's are inscribed on the FAA-TSO-C39a tag.

(b) Modify all seats with any of the above P/N's by incorporating the Aviatech Inc. Kit No. 394-25-002, which requires installing new backrest cushion-covers and a roller-guide for the shoulder harness, in accordance with Aviatech Service Bulletin No. 2, Model 394, Revision A, dated March 1, 1990, (Paragraph 2, Accomplishment Instructions).

(c) Special flight permits may be issued in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance specified in this AD may be approved by the Manager, New York Aircraft Certification Office, Engine & Propeller Directorate, Aircraft Certification Service, FAA, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581.

The modifications and installation procedures shall be done in accordance with the following Aviatech Service Bulletin (SB):

Document No.	Page No.	Issue/Revision	Date
Aviatech Inc. SB No. 2	1, 2, 4, 8, 10 3, 5, 6, 7, 9, 11	Rev. A Original	March 1, 1990. June 29, 1989.

The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aviatech Inc., 2400 Guenette Street, St. Laurent, Quebec, Canada H4R 2h2. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Room 311, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

This amendment becomes effective May 6, 1991.

Issued in Burlington, Massachusetts, on March 14, 1991.

Jack A. Sain,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91-8005 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-ASW-53; Amdt. 39-6963]

Airworthiness Directives; McDonnell Douglas Helicopter Company (MDHC) (Hughes) Model 369 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections of specified aluminum tail rotor blade root fittings on MDHC 369 series helicopters to ensure that no cracks exist in the fittings and that the fittings have proper wall thickness. The AD is prompted by a report of a tail rotor blade fitting failure. The intended effect of this amendment is to prevent loss of the tail rotor blade and subsequent loss of the helicopter.

EFFECTIVE DATE: May 3, 1991.

ADDRESSES: The applicable service information notices may be obtained from MDHC Technical Publications, Building 543/D214, McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Mesa, Arizona 85205-9797, telephone (602) 891-6484; or may be examined in the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, room, 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Sol Davis, Aerospace Engineer, Airframe Branch, ANM-123L, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5233.

SUPPLEMENTARY INFORMATION: The FAA has determined that there may be aluminum tail rotor blade root fittings in service with a manufacturing defect that could result in the loss of a tail rotor blade. This AD is prompted by a recent report of a Model 369E accident in which a defective tail rotor blade separated from the rotorcraft. Data indicates that a failure occurred in the tail rotor blade root fitting and that failure occurred because of a manufacturing defect (reduced wall thickness) that may exist on other blade root fittings. MDHC has advised the FAA that tail rotor blade assemblies delivered on or after September 1, 1990, have been inspected specifically for the manufacturing defect and meet MDHC specifications and type design data. Those blade assemblies found to be acceptable include the following part numbers (P/N's) and serial numbers (S/N's): P/N 369A1613, S/N 7959 and higher; P/N 369D21613, S/N 6482 and higher; P/N 369D21615, S/N 1358 and higher; P/N 369D21606, S/N 0538 and higher; P/N 421-088, S/N 0218 and higher. Additionally, all lower serial numbers of these five blade part numbers are acceptable if they have a yellow dot on the aft (trailing) edge of the root fitting which signifies that they have been specifically inspected and found to be free of the manufacturing defect.

Since this condition is likely to exist on other helicopters of the same type design, an AD is being issued which requires inspections of all tail rotor blade root fittings which have not been previously inspected for this defect.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

McDonnell Douglas Helicopter Company (MDHC) (Hughes): Amendment 39-6963. Docket No. 90-ASW-53.

Applicability: All MDHC Model 369 series helicopters, certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To detect or prevent cracks in the tail rotor blade root fitting, which could result in tail rotor blade failure and subsequent loss of the tail rotor blade, accomplish the following:

(a) Within 8 hours' time in service after the effective date of this AD, or upon installing replacement tail rotor blades, determine if any aluminum tail rotor blades are installed which—

(1) Have any of the following part numbers (P/N's) and serial numbers (S/N's):

(i) P/N 369A1613 (all dash numbers) with S/N less than 7959,

(ii) P/N 369D21613 (all dash numbers) with S/N less than 6482,

(iii) P/N 369D21615 (all dash numbers) with S/N less than 1358,

(iv) P/N 369D21606 (all dash numbers) with S/N less than 0538,

(v) P/N 421–088 (all dash numbers) with S/N less than 0218; and

(2) Do not have a yellow dot applied to the aft (trailing) edge of the root fitting.

(b) Record the tail rotor blade P/N's and S-N's from the determinations of paragraph (a) in the aircraft log.

Note: Only tail rotor blades which meet the criteria of paragraphs (a)(1) and (a)(2) are affected by the remaining inspections of this AD.

(c) Within 8 hours' time in service, after the effective date of this AD and, thereafter, prior to the first flight of each day, conduct a check of each tail rotor blade that fits the criteria outlined in paragraph (a). Visually check both sides of the tail rotor fitting for cracks in the area shown in Figure 1, Detail A. Replace any cracked blades with airworthy parts before further flight.

BILLING CODE 4910–13–M

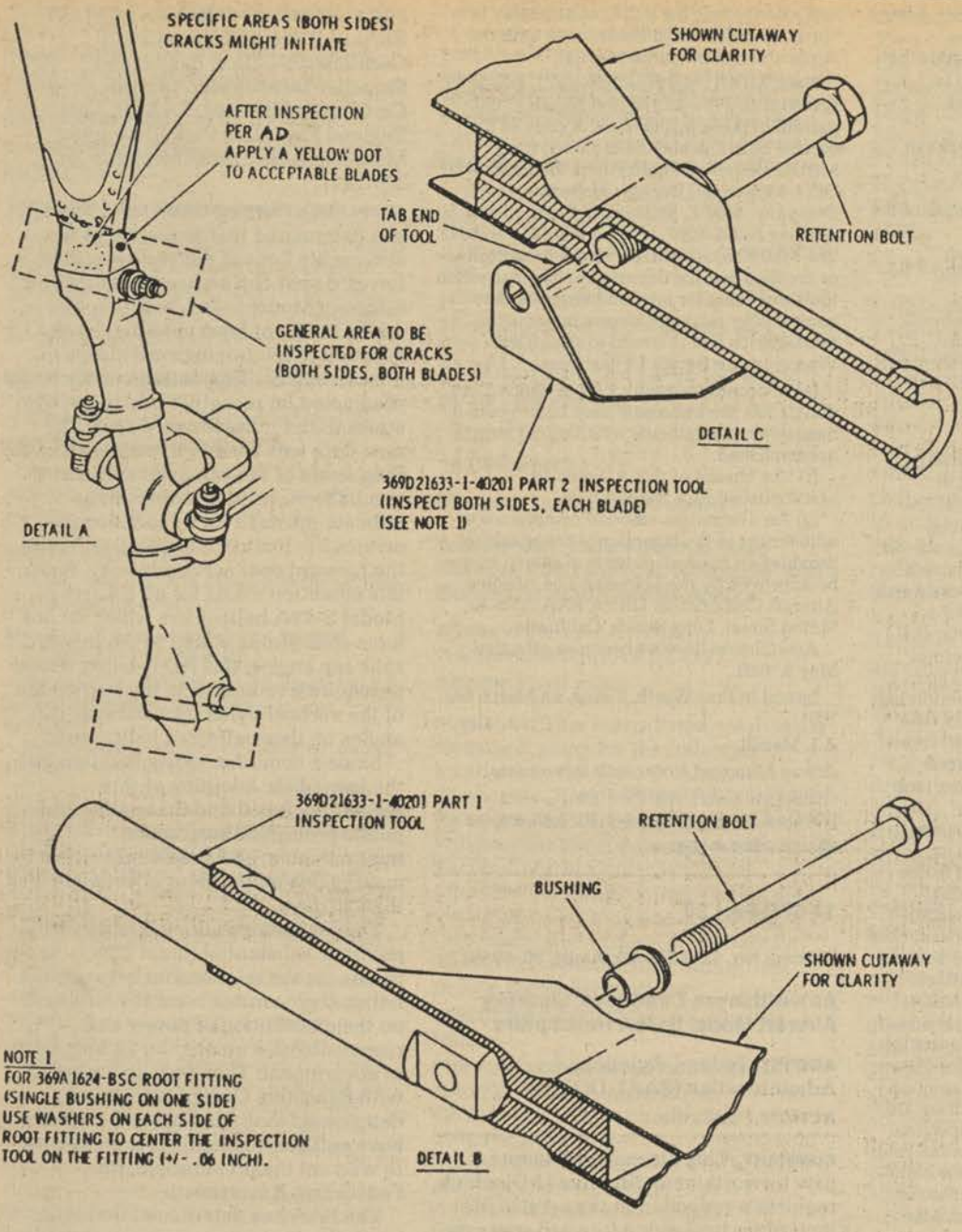

Figure 1. Inspection of Tail Rotor Blade Root Fitting.

BILLING CODE 4910-13-C

(d) Within 100 hours' time in service, after the effective date of this AD unless previously accomplished, for the blades that fit the criteria outlined in paragraph (a), accomplish the following checks and inspections:

(1) Conduct a visual check for cracks in accordance with the instructions of paragraph (c).

(2) Conduct a dimensional inspection of the tail rotor blade fitting as follows:

(i) Mark the tail rotor blades, crush washers, and bushings so they can be reinstalled in the exact location and orientation from which they are removed.

(ii) Remove the tail rotor blades in accordance with the applicable maintenance manual.

Note: Caution: Do not remove the feathering bearings.

(iii) With HS610C6244R375X375 bushing (Qty. 1) (369A1624–BSC root fitting) or 369H5308 bushings (Qty. 2) and 369H5309 crush washers (369A1624–3 root fitting) installed, ensure there are no foreign objects inside the bore of the tail rotor blade root fitting. With root fitting vertical, inboard end up, insert the 369D21633–1–40201 Part 1 inspection tool into the inner diameter (I.D.) of the root fitting. Align root fitting strap retention holes with tool hole. (See Figure 1, Detail B.) Attempt to install the retention bolt through the root fitting and tool holes. The tail rotor blade is airworthy if the tail rotor blade retention bolt cannot be inserted through the root fitting and inspection tool (Part 1) holes.

(iv) With HS610C6244R375X375 bushing (Qty. 1) (369A1624–BSC root fitting) or 369H5308 bushings (Qty. 2) and 369H5309 crush washers (369A1624–3 root fitting) installed, position the 369D21633–1–40201 Part 2 inspection tool (tab end outboard) over one side of the root fitting. Align the holes in the inspection tool with the blade attach holes in the root fitting. For the 369A1624–BSC root fitting, use washers on each side of the root fitting (equal amounts) to center the inspection tool on the root fitting (See Figure 1, Detail C). Attempt to install the retention bolt through the tool and the root fitting. Do not attempt to bend or force the inspection tool to install the retention bolt. The tail rotor blade is airworthy when the tail rotor blade attachment bolt cannot be inserted through the root fitting holes and both sides of the inspection tool (Part 2).

(v) Repeat step (iv) with the inspection tool positioned on the opposite side of the blade.

(vi) Replace unairworthy blades with airworthy blades. Replacement blades must comply with this AD.

(vii) Install tail rotor blades, crush washers and bushings in the exact location and orientation from which they were removed to ensure proper blade attachment.

(viii) Apply a yellow dot to airworthy tail rotor blades on the trailing edge of the root fitting approximately one-half inch outboard from the bushing. (See Figure 1, Detail A.) Record compliance by part number and serial number in the helicopter log book.

(ix) Install airworthy tail rotor blades in accordance with the applicable maintenance manual.

(x) Verify that the tail rotor assembly is correctly balanced in accordance with the applicable maintenance manual.

Note: MDHC SIN Nos. HN–230.1, DN–177.1, EN–68.1, and FN–55.1, dated March 1, 1991, pertain to these inspections. A copy of the service bulletins may be obtained from MDHC Technical Publications, Building 543/D214, McDonnell Douglas Helicopter Company, 5000 E. McDonnell Road, Mesa, Arizona 85205–9797, telephone (602) 891–6342. The MDHC local field service representative or the field service department has inspection tools available for loan and requests that unairworthy tail rotor blades be removed from service and returned to the MDHC Warranty and Repair Department.

(e) In accordance with FAR sections 21.197 and 21.199, the helicopter may be flown to a base where compliance with the AD may be accomplished.

(f) The checks of this AD may be accomplished by a trained pilot.

(g) An alternate method of compliance or adjustment of the compliance times, which provides an equivalent level of safety, may be approved by the Manager, Los Angeles Aircraft Certification Office, FAA, 3229 E. Spring Street, Long Beach, California.

Amendment 39–6963 becomes effective May 3, 1991.

Issued in Fort Worth, Texas, on March 26, 1991.

A.J. Merrill,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 91–8003 Filed 4–4–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–ASW–05; Amdt. 39–6958]

Airworthiness Directives; Sikorsky Aircraft Model S–76A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a reduction in the service life limit of vertical pylon forward spar cap angles which have not been reinforced with steel straps on Sikorsky Model S–76A helicopters. The AD is needed to prevent fatigue failure of the forward spar. The intended effect of this amendment is to prevent loss of control of the helicopter.

EFFECTIVE DATE: May 3, 1991.

ADDRESSES: The applicable service bulletin may be obtained from Sikorsky Aircraft, 6900 Main Street, Stratford, Connecticut 06601–1381, or may be examined in the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Round, Bldg. 3B, Room 158, Fort Worth, Texas 76193–0007.

FOR FURTHER INFORMATION CONTACT: Richard B. Noll, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7111.

SUPPLEMENTARY INFORMATION: The FAA has determined that reduction of the service life limit of the vertical pylon forward spar cap angles is required on Sikorsky Model S–76A helicopters which have not been modified by the addition of reinforcing steel straps on the cap angles. This determination is predicated on recently obtained inflight stress data for the forward spar. The new data was used in a reanalysis of the fatigue life of the cap angles. The new results were validated since they indicate the need for a reduction in service life limit that is consistent with the forward spar service history. Since this condition exists for all Sikorsky Model S–76A helicopters which do not have steel straps added to the forward spar cap angles, this AD is being issued to require a reduction in the service life of the vertical pylon forward spar cap angles on those affected helicopters.

Since a condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared

and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Sikorsky Aircraft: Amendment 39–6958, Docket No. 91–ASW–05.

Applicability: All Sikorsky Aircraft Model S–76A helicopters, certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent fatigue failure of the vertical pylon forward spar, which could result in loss of the helicopter, accomplish the following:

(a) Within the next 25 hours' time in service determine if forward spar cap angles, part numbers (P/N's) 76201–05001–103 and 76201–05001–104, are installed and if it is equipped with Sikorsky Modification Kit 76070–20086, then—

(1) If the affected helicopter has Sikorsky Modification Kit 76070–20086 installed, no further action is necessary; however

(2) If the affected helicopter has the original unmodified forward spar cap angles with 1,395 or more hours' time in service after the effective date of this AD, comply with paragraph (c), unless already accomplished, and thereafter at intervals not to exceed 1,420 hours' time in service.

Note: Information pertaining to Kit 76070–20086 is contained in Sikorsky Alert Service Bulletin No. 76–55–12.

(b) For those helicopters with the original unmodified forward spar cap angles specified in paragraph (a)(2) with less than 1,395 hours' time in service after the effective date of this AD, compliance with paragraph (c) is required prior to accumulation of 1,420 hours' time in service, unless already accomplished, and thereafter at intervals not to exceed 1,420 hours' time in service.

(c) Remove and replace the forward spar cap angles with new parts of the same part numbers.

(d) In accordance with FAR §§ 21.197 and 21.199, the helicopter may be flown to a base where compliance with the AD may be accomplished.

(e) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance or adjustment of the compliance times, which provides an equivalent level of safety, may be used if approved by the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

Amendment 39–6958 becomes effective May 3, 1991.

Issued in Fort Worth, Texas, on March 20, 1991.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 91-8004 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90–AAL–7]

Amendment to Anchorage, King Salmon, Point Barrow, Kotzebue, and Nome Transition Areas; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes transition areas for the following locations in the State of Alaska: Anchorage, King Salmon, Point Barrow, Kotzebue, and Nome. This amendment will provide the Anchorage Air Route Traffic Control Center (ARTCC) additional controlled airspace for the vectoring of arriving and departing instrument flight rules (IFR) aircraft. This action will increase safety and reduce controller workload.

EFFECTIVE DATE: 0901 u.t.c., May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace–Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 276–9252.

SUPPLEMENTARY INFORMATION:

History

On September 12, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise and extend the transition areas for the following locations in the State of Alaska: Anchorage, King Salmon, Point Barrow, Kotzebue, and Nome (55 FR 37486). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two comments were received regarding this proposal were received from the Department of Defense and the Department of State; these parties concurred with this proposal. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes transition areas for the following locations in the State of Alaska: Anchorage, King Salmon, Point Barrow, Kotzebue, and Nome. The 700-foot transition area at King Salmon, AK, which was proposed as an 85-mile radius of King Salmon, AK, was reduced to an 8.5-mile radius of King Salmon, AK. The FAA finds that an 85-mile radius would be excessive and not beneficial to local aviation interests. Reducing the transition area to a radius 8.5 miles of King Salmon will accommodate both the FAA's needs and concerns of local aviators. This amendment will provide the Anchorage ARTCC additional controlled airspace for the vectoring of arriving and departing instrument flight rules (IFR) aircraft. The ability to provide radar separation service over much of the Anchorage ARTCC's airspace is limited by the lack of controlled airspace. The existing transition areas in the western part of the airspace contains only the IFR non-radar routes and departure paths. The FAA increased the number of radar sites in Anchorage ARTCC's airspace from 7 to 15 sites. The additional radar sites and controlled airspace will improve radar service and efficiency in western Alaska by using off-airway areas for radar services. This action will enhance the safety of aircraft conducting flight under IFR and visual flight rules and will reduce controller workload.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a

significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Anchorage, AK [Revised]

That airspace extending upward from 700 feet above the surface within an 18-mile radius of the Anchorage International Airport (lat. 61°10'29"N., long. 149°58'38"W.); that airspace extending upward from 1,200 feet above the surface within an 85-mile radius of the Anchorage VOR (lat. 61°09'05"N., long. 150°12'16"W.), and within a 142-mile radius of the Anchorage VOR extending clockwise from the 185° radial to the 278° radial, excluding the Homer, AK, and King Salmon, AK, Transition Areas; that airspace extending above 8,000 feet MSL within a 172-mile radius of the Anchorage VOR extending from the 090° radial clockwise to the 185° radial, excluding the portions within Federal airways, the Middleton Island, AK; Johnstone Point, AK; Cordova, AK; and the Valdez, AK, Transition Areas; and that airspace extending above 14,500 feet MSL within a 172-mile radius of the Anchorage VOR extending from the 185° radial clockwise to the 090° radial, excluding portions within the Continental Control Area, Federal airways, and the King Salmon, AK, Transition Area.

King Salmon, AK [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the King Salmon, AK, Airport (lat. 58°40'39"N., long. 156°38'49"W.); that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at lat. 58°00'00"N., long. 156°40'00"W.; to lat. 58°30'00"N., long. 160°45'00"W.; to lat. 59°40'00"N., long. 160°25'00"W.; to lat. 60°27'00"N., long. 153°55'00"W.; to lat. 59°15'00"N., long. 152°35'00"W.; to lat. 58°06'00"N., long. 156°00'00"W.; to lat. 58°00'00"N., long. 156°25'00"W.; to point of beginning, excluding the Dillingham, AK; Togiak, AK; and Iliamna, AK, Transition Areas; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the King Salmon VORTAC (lat. 58°43'31"N., long. 156°45'00"W.), excluding the portions within the Continental Control Area, Federal airways, Control 1234, and the Norton Sound, AK, Additional Control Area.

Point Barrow, AK [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Barrow VORTAC (lat. 71°16'26"N., long. 156°47'05"W.), extending clockwise from the 101° radial to the 215° radial; and that airspace extending upward from 1,200 feet above the surface within a 32-mile radius of the Barrow VORTAC extending clockwise from the 240° radial to the 101° radial, within an 88-mile radius of the Barrow VORTAC extending clockwise from the 101° radial to the 240° radial, excluding portions within the Federal airways.

Kotzebue, AK [Revised]

That airspace extending upward from 700 feet above the surface within a 19-mile radius of the Kotzebue VOR (lat. 66°53'11"N., long. 162°32'14"W.); that airspace extending upward from 1,200 feet above the surface within a 46-mile radius of the Kotzebue VOR, within 46 miles each side of the Kotzebue VOR 103° radial extending from the 46-mile radius to a point 81 miles east of the Kotzebue VOR; and that airspace extending upward from 7,500 feet MSL within 8.5 miles of the Kotzebue VOR 103° radial extending from a point 81 miles east of the Kotzebue VOR to 111 miles southeast of the Kotzebue VOR, excluding the portions within the Selawik, AK, Transition Area and Federal airways.

Nome, AK [Revised]

That airspace extending upward from 700 feet above the surface within a 26-mile radius of the Nome VORTAC (lat. 64°29'09"N., long. 165°15'02"W.), extending clockwise from the 277° radial to the 313° radial, and within a 12-mile radius of the Nome VORTAC, extending clockwise from the 313° radial to the 134° radial; and that airspace extending upward from 1,200 feet above the surface within 46 miles of the Nome VORTAC, and within 46 miles each side of the Nome VORTAC 092° radial extending from the 46-mile radius to 98 miles east of the VORTAC, excluding the portions within the Moses Point, AK, Transition Area and Federal airways.

Issued in Washington, DC, on March 28, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91–8006 Filed 4–4–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71 and 75

[Airspace Docket No. 89–ASO–12]

Alteration of VOR Federal Airways and Jet Routes; FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the descriptions of several Federal airways and jet routes located in the vicinity for Fort Myers, FL. The lease on the Fort Myers very high frequency omnidirectional radio range and tactical air navigational aid (VORTAC) was not renewed; therefore, the VORTAC was renamed and relocated to the Southwest Florida Regional Airport. Subsequent to the removal of the VORTAC, the Fort Myers Reporting Point will be removed. This action supports the relocation of the VORTAC.

EFFECTIVE DATE: 0901 u.t.c., May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace–Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On June 6, 1989, the FAA proposed to amend parts 71 and 75 of the Federal Aviation Regulations (14 CFR parts 71 and 75) to change the descriptions of all VOR Federal airways and jet routes affected by the relocation of the Fort Myers VORTAC (54 FR 24190). The lease for the Fort Myers VORTAC has not been renewed at its current location. The new VORTAC is located at the Southwest Florida Regional Airport, and has been renamed the Lee County VORTAC. The coordinates for the VORTAC site are lat. 26°31'46" N., long. 81°46'34" W. This action supports relocation of the Fort Myers VORTAC, and the removal of the Fort Myers Reporting Point. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial and minor radial changes to V–7, V–539, V–579, and J–75, these amendments are the same as those proposed in the notice. Sections 71.123, 71.203, and 75.100 of parts 71 and 75 of the Federal Aviation

Regulations were republished in Handbook 7400.6G dated September 4, 1990.

The Rule

These amendments to part 71 and 75 of the Federal Aviation Regulations alter the descriptions of several Federal airways and jet routes located in the vicinity of Fort Myers, FL. The lease on the Fort Myers VORTAC has not been renewed; therefore, the VORTAC was renamed and relocated to the Southwest Florida Regional Airport. This action supports the relocation of VORTAC and the removal of the Forth Myers reporting point.

The FAA has determined that this regulation only involves and established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes, Reporting points.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 75 of the Federal Aviation regulations (14 CFR parts 71 and 75) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71. 123 is amended as follows:

V-7 [Amended]

By removing the words ", via Fort Myers, FL; Lakeland, FL;" and substituting the words "; Lee County, FL; INT Lee County 353° and Lakeland, FL, 170° radials; Lakeland;"

V-35 [Amended]

By removing the words "and Fort Myers, FL, 137° radials; Fort Myers;" and substituting the words "and Lee County, FL, 139° radials; Lee County;"

V-225 [Amended]

By removing the words "Fort Myers, FL;" and substituting the words "Lee County, FL;"

V-521 [Amended]

By removing the words "Fort Myers, FL, 101° radials; Fort Myers; INT Fort Myers 022°" and substituting the words "Lee County, FL, 099° radials; Lee County; INT Lee County 014°"

V-539 [Revised]

From Key West, FL; INT Key West 013° and Lee County, FL, 167° radials; to Lee County.

V-579 [Amended]

By removing the words "From Ft. Myers, FL, via INT Ft. Myers 311°" and substituting the words "From Lee County, FL; INT Lee County 310°"

§ 71.203 [Amended]

3. Section 71.203 is amended as follows:

Fort Myers, FL [Removed]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

4. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

5. Section 75.100 is amended as follows:

J-41 [Amended]

By removing the words "From Key West, FL, via INT of Key West 358° and St. Petersburg, FL, 151° radials;" and substituting the words "From Key West, FL; Lee County, FL;"

J-58 [Amended]

By removing the words " and Sarasota, FL, 286° radials; Sarasota; INT of Sarasota 138° and Biscayne Bay, FL, 301° radials; to Biscayne Bay." and substituting the words "and Sarasota, FL, 286° radials; Sarasota; Lee County, FL; Biscayne Bay, FL."

J-75 [Amended]

By removing the words "From Biscayne Bay, FL; Fort Myers, FL; INT fort Myers 345° and Taylor, FL, 175° radials;" and substituting the words "From Biscayne Bay, FL; Lee County; INT Lee County 340° and Taylor, FL, 176° radials;"

Issued in Washington, DC, on March 28, 1991.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 91-8007 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Securities and Futures Authority Limited; Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: Effective April 1, 1991, two United Kingdom self-regulating organizations, the Association of Futures Brokers and Dealers Limited ("AFBD") and the Securities Association Limited ("TSA") will merge to form the Securities and Futures Authority Limited ("SFA"). By this Order, the Commodity Futures Trading Commission ("Commission") acknowledges the substitution of the SFA as a party to several ongoing information sharing and financial intermediary recognition arrangements entered into with the AFBD, TSA and others pursuant to part 30 of the Commission's rules, 17 CFR part 30 (1990) and otherwise pursuant to its authority under the Commodity Exchange Act, 7 U.S.C. 1 *et. seq.*

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Rosenfeld, Assistant Director, or David Naatz, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Tel: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On December 20, 1990, the membership of the Association of Futures Brokers and Dealers Limited and the Securities Association Limited, recognized Self-Regulating Organizations ("SRO") under Section 10 of the United Kingdom Financial Services Act, voted to merge and form the Securities and Futures Authority Limited.[1] As set forth in a joint TSA/AFBD circular dated November 26, 1990, TSA will be the surviving entity, and will, among other things: (1) Change its name to SFA, (2)

[1] See letter dated December 20, 1990, from C.J. Sharples, Chairman of the AFBD, to AFBD members.

expand the scope of its regulatory responsibilities to include the regulation of all types of investment business involving derivative instruments and contracts for differences, and (3) adopt new disciplinary rules to permit it to exercise disciplinary powers over former members of AFBD in relation to matters arising while they were AFBD members.[2] The recognition and continued oversight by the United Kingdom Securities and Investments Board ("SIB") of TSA (renamed, and hereinafter referred to as, "SFA") will remain unaffected.[3] The AFBD has applied for and been granted an order from the SIB revoking its recognition as an SRO, which becomes partially effective April 1, 1991 and fully effective April 1, 1992.[4]

Effective April 1, 1991, all existing TSA members will automatically become members of SFA, however, all AFBD members will have to apply for and be granted SFA membership.[5] The Chief Executive of the AFBD has applied for membership in SFA on behalf of all AFBD members, and AFBD expects that with few exceptions (which will be identified to the Commission if such an exception affects a firm which has been granted or applied for rule 30.10 relief) all such applications will be accepted for SFA membership effective April 1, 1991.[6] As a condition of membership in SFA, each AFBD member will agree, among other things, to: (1) Be bound by the rules of SFA, (2) SFA being able to take disciplinary action and assure powers of intervention or enforcement in respect of matters arising during AFBD membership and (3) the substitution of SFA for AFBD as party to any existing agreement between the firm and AFBD.[7]

TSA and AFBD currently are in the process of developing harmonized rules and anticipate that the ongoing process will result in a comprehensive set of rules that will be adopted by the SFA. Certain rules of TSA and the AFBD will have been harmonized and come into effect as rules of the SFA when the merger takes effect.[8] In other areas, certain transitional arrangements will be implemented. Specifically, all former TSA firms will continue to be subject to TSA conduct of business and financial rules, and all former AFBD firms will continue to be subject to AFBD conduct of business and financial rules, as applied to them by the transitional rules of the SFA (which will be implemented by the SFA Board at its first meeting on April 2, 1991).[9] Any necessary United Kingdom approvals to effect this change have or will have been obtained on or before April 1, 1991.[10]

On September 1, 1988, the Commission entered into the Financial Information Sharing Memorandum of Understanding ("FISMOU") with, among others, the SIB, AFBD and TSA. On May 15, 1989, the Commission issued Orders under Commission rule 30.10 exempting certain members of, among others, the AFBD and TSA from compliance with certain Commission rules based upon substituted compliance with applicable United Kingdom law and SIB, AFBD and TSA rules, as appropriate, and compliance by the AFBD and TSA and their designated members with the conditions as specified in the appropriate Order.[11] Also, on May 15, 1989, the Commission entered into the "Addendum dated May 15, 1989 to Financial Information Sharing Memorandum of Understanding" ("Addendum") with, among others, the SIB, TSA and AFBD.[12] The Commission has been advised that notwithstanding the fact that the SIB revocation order is not fully effective until April 1, 1992, that effective April 1, 1991, SFA agrees to the conditions of, confirms the extension of the benefits of, and will assume full self-regulatory responsibilities with respect to, all matters addressed in the above referenced documents as though references to it were substituted for references to TSA and AFBD.

Based upon the foregoing, the Commission hereby:

(1) Acknowledges that effective April 1, 1991, all confirmations of rule 30.10 relief previously extended and then in effect by Commission staff to AFBD and TSA firms remain effective with respect to such firms in their capacity as members of SFA and that for supervisory purposes the SFA will be the relevant United Kingdom self-regulating organization;

(2) Acknowledges that effective April 1, 1991, the AFBD will no longer be a party to: (a) The FISMOU entered into on September 1, 1988 by, among others, the SIB, AFBD, TSA and the Commission and (b) the Addendum and acknowledges that SFA, as the renamed TSA, will continue as a party to the FISMOU and Addendum and that SFA Members shall be entitled to all of the benefits, subject to the remaining parties' performance of their responsibilities under the FISMOU and Addendum entered into by, among others, the SIB, AFBD, TSA and the Commission;

(3) Effective April 1, 1991, revokes its Order dated May 15, 1989 granting rule 30.10 relief to the Association of Futures Brokers and Dealers (54 FR 21604 (May 19, 1989)); and

(4) Acknowledges that its Order dated May 15, 1989 granting rule 30.10 relief to The Securities Association and its members continues to be effective notwithstanding its change in scope of authority, name and membership, and that the SFA and its members, including members of TSA, members of the AFBD and others who become members of the SFA on or after April 1, 1991 shall be substituted as being subject to that Order.

This Order is conditional (1) on the merger of the AFBD and TSA in fact proceeding as described in the November 26, 1990 Circular and all other documents as referenced above and that effective April 1, 1991, and that the SFA will be and will remain a Self-Regulating Organisation recognized by the United Kingdom Securities and Investments Board (2) on receipt by no later than April 5, 1991, of the rules of the SFA as in effect on April 1, 1991, and an explanation from SFA as to the status of which rules of AFBD and TSA remain in effect pending their harmonization (3) on AFBD and TSA taking whatever action may be necessary to assure that the relevant United Kingdom financial resource requirement continues to be disapplied as to their members who are United States futures commission merchants who also are the subject of the FISMOU dated September 1, 1988, and (4) on the rules applied by the SFA remaining comparable to existing AFBD and TSA rules. In this regard, the Commission notes that its rule 30.10 Order dated May 15, 1989 to TSA provides that any material changes or omissions in the facts and

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[2] See TSA/AFBD circular, "Proposals for the Merger of The Securities Association Limited and The Association of Futures Brokers and Dealers Limited to Form The Securities and Futures) Authority Limited," dated November 26, 1990 (hereinafter, "November 26, 1990 Circular").

[3] See Commission Orders dated May 15, 1989, granting rule 30.10 relief to the Securities and Investments Board, the Association of Futures Brokers and Dealers and the Securities Association, 54 FR 21599, 21604 and 21609 (May 19, 1989).

[4] See November 26, 1990 Circular, letter dated February 11, 1991 from Mr. Giles Stimson of the AFBD to Andrea M. Corcoran and letter dated March 27, 1991 from Phillip Thorpe, of the AFBD and Deputy Chief Executive Designate of the SFA, to Andrea M. Corcoran (hereinafter, "March 27, 1991 letter").

[5] See November 26, 1990 Circular.

[6] See See March 27, 1991 letter.

[7] See November 26, 1990 Circular.

[8] *Id.*

[9] See letter dated March 11, 1991 from P.A. Thorpe, Chief Executive of the AFBD, and J.R.C. Young, Chief Executive of the TSA, to their members.

[10] See March 27, 1991 letter.

[11] See 54 FR 21604 (May 19, 1989); 54 FR 21609 (May 19, 1989).

[12] *Id.*

circumstances pursuant to which the Order was granted might require the Commission to reconsider its finding that the standards for relief set forth in Commission rule 30.10 and, in particular, appendix A thereof, have generally been satisfied. That Order also provides that if experience demonstrates that the continued effectiveness of the Order in general, or with respect to a particular firm, would be contrary to the public interest, or other circumstances do not warrant continuation of the exemptive relief granted therein, the Commission may condition, modify, suspend, terminate, withhold as to a specific firm or otherwise restrict, the exemptive relief granted, as appropriate, on its own motion.

The Commission reserves the right to revoke, modify or suspend this Order, as appropriate, on its own motion. The Commission further makes this Order subject to continued compliance by SFA, as the entity substituted for AFBD and TSA, with all of the terms and conditions of the Commission's Orders dated May 15, 1989, 54 FR 21604 and 21609 (May 19, 1989) (granting rule 30.10 relief to the AFBD and TSA, respectively, and their members), which are hereby incorporated by reference.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign commodity options.

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix C to part 30 is amended by revising the following two existing entries to read as follows:

Appendix C—Foreign Petitioners Granted Relief From the Application of Certain of the Part 30 Rules Pursuant to § 30.10

* * * * *

Firms designated by the Association of Futures Brokers and Dealers.

FR date and citation: May 19, 1989; 54 FR 21609; [insert cite for this FR release when published in FR].

Firms designated by The Securities Association.

FR date and citation: May 19, 1989; 54 FR 21614; [insert cite for this FR release when published in FR]

* * * * *

Issued in Washington DC on April 1, 1991.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 91-7983 Filed 4-4-91; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Chlortetracycline, Procaine Penicillin, and Sulfamethazine; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for a new animal drug application (NADA) for chlortetracycline, procaine penicillin, and sulfamethazine from Pfizer, Inc., to TRINADA, Inc., a newly formed corporation owned jointly and equally by Carl S. Akey, Inc., International Nutrition, Inc., and Feed Specialties Co., Inc. (a wholly owned subsidiary of Central Soya Co., Inc.).

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, has informed FDA that it has transferred ownership of, and all rights and interests in, approved NADA 091-668 (chlortetracycline, procaine penicillin, and sulfamethazine) to TRINADA, Inc., a newly formed corporation owned jointly and equally by Carl S. Akey, Inc., P.O. Box 607, Lewisburg, OH 45338; Central Soya Co., Inc., P.O. Box 1400, Fort Wayne, IN 46801-1400; and International Nutrition, Inc., 6604 "L" St., Omaha, NE 68117.

The agency is amending the regulations in 21 CFR 510.600 (c)(1) and (c)(2) and 558.145(a)(1) to reflect the change.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "TRINADA, Inc.," and in the table in paragraph (c)(2) by numerically adding an entry for "058690" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
TRINADA, Inc., P.O. Box 129, Lewisburg, OH 45338	058690
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
058690	TRINADA, Inc., P.O. Box 129, Lewisburg, OH 45338.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.145 [Amended]

4. Section 558.145 *Chlortetracycline, procaine penicillin, and sulfamethazine* is amended in paragraph (a)(1) by removing the phrase "000069 and" and adding the phrase "and 058690" after the number "010042".

Dated: March 28, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 91-7965 Filed 4-4-91; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation of Injectable Dosage Form New Animal Drugs not Subject to Certification; Ivermectin Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect an administrative revision of the dosage for use of ivermectin injection in swine for treating and controlling helminths, lice, and mites. The new animal drug application (NADA) is held by Merck Sharp & Dohme Research Laboratories. This action will simplify the regulations.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, is sponsor, of NADA 135-008 which provides for subcutaneous use of a 1-percent Ivomec (ivermectin) injection in swine for treating and controlling infections caused by certain species of gastrointestinal roundworms, lungworms, lice, and mites. The NADA provides for use of 300 micrograms per kilogram (μg/kg) in swine and 200 μ/μg in cattle, reindeer, and horses. The regulation in 21 CFR 522.1192(d)(4)(i) provides for use of 10 milligrams per 75 pounds (lb) in swine, including piglets 70 lb or less. To simplify the regulations, the dose (amount) used in swine is amended to read "300 micrograms per kg (2.2 lb)." This amendment is an administrative action which does not require revision of the labeling, NADA files, freedom of information summary, environmental statement, or exclusivity provisions.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 306b).

2. Section 522.1192 is amended by revising paragraph (d)(4)(i) to read as follows:

§ 522.1192 Ivermectin injection.

* * * * *

(d) * * *

(4) * * *

(i) *Amount.* 300 micrograms per kilogram (2.2 pounds).

* * * * *

Dated: April 1, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 91-8074 Filed 4-4-91; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Certain Drug Combinations Involving Melengestrol Acetate, Monensin, Lasalocid, and Tylosin; Clarification

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that amended the animal drug regulations to reflect approval of six new animal drug applications (NADA's) filed by The Upjohn Co. The regulations provide for the manufacture of certain medicated feed products involving melengestrol acetate (MGA), monensin, lasalocid, and tylosin. The products are intended for subsequent feeding to heifers confined for slaughter. Due to misinterpretation of the regulations, products not provided for are being produced. The purpose of this document is to clarify the regulations.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Robert J. Condon, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301-295-8638.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1990 (55 FR 31827), FDA published a final rule amending the animal drug regulations to reflect approval of six NADA's filed by The Upjohn Co. It has been brought to the agency's attention that the regulations published on August 6, 1990 (55 FR 31827 at 31828) do not clearly state when a form FDA 1900 approval is required. On page 31827, the agency stated:

> These are new animal drugs used in Type A medicated articles to make Type C medicated feeds. MGA is a Category II drug which, as provided in § 558.4, requires an approved form FDA 1900 for making a Type C medicated feed from a Type A medicated article. Therefore, an approved form FDA 1900 is required for making a Type C medicated feed containing melengestrol acetate in various combinations involving monensin, lasalocid, and tylosin as in the approved subject NADA's and in the regulations herein added to § 558.342.

In the interest of clarity, the agency wishes to explain that MGA is a Category II drug which, as provided in § 558.4, requires an approved form FDA 1900 to use a Type A medicated article in manufacturing any type of medicated feed, including combinations involving monesin, lasalocid, and tylosin. However, the use of a Type B medicated feed containing MGA concentrations of 0.125 to 1.0 milligram per pound (mg/lb) in manufacturing Type C medicated feed does not require an approved form FDA 1900. This includes MGA combinations involving monensin, lasalocid, and tylosin as in the approved subject NADA and in the regulations herein added to § 558.342.

Additionally, some firms have interpreted the subject regulations as allowing the manufacture of Type B medicated feeds containing combinations of MGA and tylosin with or without monensin (or lasalocid). The regulations do not provide for tylosin in a medicated feed at a concentration greater than 40 grams per ton (g/ton) (maximum Type C concentration) with other drugs. The NADA's provide for the manufacture of the following products using MGA Type A medicated articles (liquid or dry) for use in heifers confined for slaughter:

(1) A Type B medicated feed containing MGA (0.125 to 1.0 (mg/lb)) for subsequent addition at the feedlot to Type C medicated feed containing tylosin (8 to 40 (g/ton)).

(2) A Type B medicated feed containing MGA (0.125 to 1.0 mg/lb) and

monensin (25 to 720 mg/lb) for subsequent addition at the feedlot to Type C medicated feed containing tylosin (10 to 40 g/ton).

(3) A Type B medicated feed containing MGA (0.125 to 1.0 mg/lb) and lasalocid (50 to 720 mg/lb) for subsequent addition at the feedlot to Type C medicated feed containing tylosin (10 to 40 g/ton).

(4) A Type B medicated feed containing MGA (0.125 to 1.0 mg/lb) for subsequent addition at the feedlot to Type C medicated feed containing tylosin (8 to 10 g/ton) and monensin (5 to 30 g/ton).

(5) A Type B medicated feed containing MGA (0.125 to 1.0 mg/lb) for subsequent addition at the feedlot to Type C medicated feed containing tylosin (8 to 40 g/ton) and lasalocid (10 to 30 g/ton).

To further clarify the subject regulations, the agency is adding the preceding restriction to the limitations paragraph of each drug combination approved by the regulations.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.342 [Amended]

2. Section 558.342 *Melengestrol acetate* is amended in paragraphs (c)(4)(ii), (c)(5)(ii), and (c)(6)(ii) by adding the sentence "This regulation does not provide for tylosin in a medicated feed at a concentration greater than 40 grams per ton with other drugs." after the third sentence of the respective paragraphs.

Dated: March 28, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 91-7964 Filed 4-4-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-91-3230; FR-3014-N-01]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the list of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by increasing the mortgage limits in Cheshire County, NH; Erie County, NY; Louisa County, VA; Mecklenburg County, NC; the Columbus, OH MSA; Dupage County, IL; the Odessa, TX MSA; Santa Fe County, NM; St. Louis County, MO; Eagle, Elbert, Garfield, and Park Counties, CO; Nevada County, CA; and Douglas and Carson City Counties, NV; and adding "high-cost" mortgage limits for Dare and Nash Counties, NC; Lee County, MS; Warwick County, IN; Yuma County, AZ; and Latah County, ID.

Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, room 9272; telephone (202) 708-2700. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, room 9160; telephone (202) 708-2880; 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. (1710-1749), authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

The last comprehensive list of high-cost areas was published on January 12, 1990 (55 FR 1312) listing all areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and the applicable limits for each area. Amendments to the annual listing were published on June 14, 1990 (55 FR 24075) and September 12, 1990 (55 FR 37462).

This Document

Today's document increases high-cost mortgage amounts for Cheshire County, NH; Erie County, NY; Louisa County, VA; Mecklenburg County, NC; the Columbus, OH MSA; Dupage County, IL; the Odessa, TX MSA; Santa Fe County, NM; St. Louis County, MO; Eagle, Elbert, Garfield, and Park Counties, CO; Nevada County, CA; and Douglas and Carson City Counties, NV; and adding "high-cost" mortgage limits for Dare and Nash Counties, NC; Lee County, MS; Warwick County, IN; Yuma County, AZ; and Latah County, ID. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

These amendments appear in two parts. Part I explains high-cost limits for mortgages insured under title I of the National Housing Act. Part II lists each high-cost area, with applicable limits for single family residences (including condominiums) insured under section 203(b), 234(c) and 214 of the National Housing Act.

List of Subjects

24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Reporting and recordkeeping requirements.

24 CFR Part 203

Hawaiian Natives, Indians: lands, Home Improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, the Department publishes the revised dollar limitations as follows:

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of part II of this list by .80. For example, Cheshire County, NH, has a one-family limit of $104,500. The combination home and lot loan limit is $104,500×.80, or $83,600.

B. *Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of part II of this list by .20. For example, Cheshire County, NH, has a one-family limit of $104,500. The lot-only loan limit for Cheshire County, NH is $104,500×.20, or $20,900.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. *For manufactured homes:* $56,700. ($40,500×140%).

2. *For combination manufactured homes and lots:* $75,600. ($54,000×140%).

3. For lots only: $18,900. ($13,500×140%).

II. Title II: Updating of FHA Sections 203(b), 234(c) and 214 Area Wide Mortgage Limits

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Region I: HUD Field Office—Manchester Office				
Cheshire County, NH	$104,500	$117,700	$143,000	$165,000
Region II: HUD Field Office—Buffalo Office				
Erie County, NY	$90,250	$101,650	$123,500	$142,500
Region III: HUD Field Office—Richmond Office				
Louisa County	$70,750	$79,700	$96,850	$111,750
Region IV: HUD Field Office—Greensboro Office				
Dare County, NC	$109,250	$123,050	$149,500	$172,500
Mecklenburg County	108,300	121,950	148,200	171,000
Nash County	76,000	85,600	104,000	120,000
HUD Field Office—Jackson Office				
Lee County, MS	$76,000	$85,600	$104,000	$120,000
Region V: HUD Field Office—Chicago Office				
Dupage County, IL	$111,150	$125,150	$152,100	$175,500
HUD Field Office—Columbus Office				
Columbus, OH MSA: Delaware County, Farirfield County, Franklin County, Licking County, Madison County, Pickaway County, Union County	$89,000	$100,250	$121,800	$140,550
HUD Field Office—Indianapolis Office				
Warwick County, IN	$73,150	$82,350	$100,100	$115,500
Region VI: HUD Field Office—Lubbock Office				
Odessa, TX MSA. Ector County	$99,750	$112,350	$136,500	$157,500
HUD Field Office—Santa Fe Office				
Santa Fe County, NM	$120,650	$135,850	$165,100	$190,500
Region VII: HUD Field Office—St. Louis Office				
St. Louis County	$108,800	$122,550	$148,850	$171,800
Region VIII: HUD Field Office—Denver Office				
Eagle County, CO	$124,875	$140,600	$170,200	$197,950
Elbert County	88,900	100,100	121,650	140,350
Garfield County	88,350	99,500	120,900	139,500
Park County	80,750	90,950	110,500	127,500

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Region IX: HUD Field Office—Phoenix Office				
Yuma County, AZ	$70,300	$79,150	$96,200	$111,000
HUD Field Office—Reno Office				
Carson City, NV	$95,950	$108,050	$131,300	$151,500
Douglas County	92,600	104,300	126,750	146,250
HUD Field Office—Sacramento Office				
Nevada County, CA	$124,875	$140,600	$170,200	$197,950
Region X: HUD Field Office—Boise Office				
Latah County, ID	$75,500	$85,050	$103,350	$119,250

Dated: March 29, 1991.

Arthur J. Hill,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 91-8020 Filed 4-4-91; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8342]

RIN 1545-A085

Extension of Time for Making Elections

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: These amendments to the regulations under 26 CFR part 301 concern the extension of time for making elections or applications for relief when that time is not expressly prescribed by statute. The change permits the Commissioner to grant taxpayers an extension of time for making these elections or applications under any subtitle of the Code other than subtitle E, governing Alcohol, Tobacco, and Certain Other Excise Taxes; subtitle G, governing the Joint Committee on Taxation; subtitle H, governing the Financing of Presidential Elections; and subtitle I, governing the Trust Fund Code.

DATES: These amendments are effective February 13, 1959.

FOR FURTHER INFORMATION CONTACT: Barbara B. Walker, 202-566-5985 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1.9100-1 of the Income Tax Regulations was originally adopted in 1959, 12 FR 1206 (February 17, 1959), and amended in 1970, 35 FR 17840 (November 20, 1970), under the authority of section 7805(a) of the Internal Revenue Code.

Need for Temporary Regulations

The provisions contained in this Treasury Decision are needed immediately to provide guidance to the public with respect to extensions of time for making elections or applications for relief. Therefore, it is found impracticable and contrary to the public interest to issue this Treasury Decision with prior notice under section 553(b) of title 5 of the United States Code.

Explanation of Provisions

Under § 1.9100-1(a), the Commissioner, in his discretion, may grant a reasonable extension of time for making an election under subtitle A of the Code when the time for making the election is not expressly prescribed by statute. Since the adoption of this provision in 1959, the number of elections with due dates prescribed by regulations under other subtitles of the Code has increased to over 500. Taxpayers failing to make these elections by their prescribed dates have no avenue for requesting relief. Accordingly, the regulations are amended to permit the Commissioner to grant reasonable extensions of time for making elections with non-statutory due dates under all subtitles of the Code except subtitle E, governing Alcohol, Tobacco, and Certain Other Excise Taxes; subtitles G, governing the Joint Committee on Taxation; subtitle H, governing the Financing of Presidential Elections; and subtitle I, governing the Trust Fund Code. The amendments do not apply to these subtitles because the Service does not have jurisdiction over the provisions of subtitles E, G, H, and I (except for section 5881, under subtitle E, which imposes an excise tax on greenmail but contains no election provision).

A special transitional rule applies to elections or applications for relief required to be made prior to April 5, 1991, for any year as to which the period of limitations has not expired under subtitle B, Estate and Gift taxes; subtitle C, Employment taxes; subtitle D, Miscellaneous Excise taxes; and subtitle F, Procedure and Administration. For these elections or applications, taxpayers must request relief by the later of October 2, 1991, or the date that is one year after the date the election or application was required to be made. Due to the potential for prejudice to the interest of the Government in connection with significant delays in making elections and applications, a taxpayer seeking relief under this special transitional rule must provide clear evidence of intent to make the specific election or application, in addition to satisfying the requirements of Rev. Proc. 79-63, 1979-2 C.B. 578 (other than § 4.01(2)), or any successor procedure. Ordinarily, this will require the production of written contemporaneous documents demonstrating the taxpayer's intent to make the specific election or application.

The specific requirements for obtaining relief under § 1.9100-1 set forth in Rev. Proc. 79-63, 1979-2 C.B. 578 may not be compatible with certain characteristics of some of the elections required to be made under the subtitles added to the Commissioner's discretionary authority by this regulation. Until the issuance of further guidance, the Service will apply Rev. Proc. 79-63 to elections under all the subtitles now included in § 301.9100-1 of the regulations taking into account their special characteristics, if any.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations; therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a cop of these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Barbara B. Walker, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Disclosure of information, Employment taxes, Estate taxes, Excise taxes, Filing requirements, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes.

Adoption of Amendments to the Regulations

Accordingly, title 26, part 301, of the Code of Federal Regulations is amended as follows:

PART 30—[AMENDED]

Paragraph 1. The authority for part 301 continues to read as part:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 301.9100–1T is added to read as follows:

§ 301.9100–1T Extension of time for making certain elections (temporary).

(a) *In general.* The Commissioner in his discretion may, upon good cause shown, grant a reasonable extension of the time fixed by regulations or by a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin for the making of an election or application for relief in respect of tax under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I, provided—

(1) The time for making such election or application is not expressly prescribed by statute;

(2) Request for the extension is filed with the Commissioner before the time fixed for making such election or application, or within such time thereafter as the Commissioner may consider reasonable under the circumstances; and

(3) It is shown to the satisfaction of the Commissioner that the granting of the extension will not jeopardize the interests of the Government. For purposes of this section, an application for an extension of time for filing a return under section 6081 is not an application for relief in respect of tax.

(b) *Special transitional rule for elections under subtitles B, C, D, and F required to be made prior to April 5, 1991.* Taxpayers may request relief under this paragraph (b) for elections or applications for relief under subtitles B, C, D, and F required to be made prior to April 5, 1991, for any year as to which the period of limitations has not expired. Requests for relief must be filed with the Commissioner by the later of October 2, 1991, or the date that is one year after the date the election or application was required to be made. In addition to satisfying all other requirements for relief, a taxpayer must demonstrate clear evidence of intent to make the specific election or application at the time it was required to be made.

(c) *Exceptions applicable to elections required to be made prior to November 20, 1970.* Notwithstanding the provisions of paragraph (a) of this section, the time fixed by the regulations in subtitle A shall not be extended in cases of the following types of elections and applications required by such regulations to be made prior to November 20, 1970:

(1) An election required to be made in or with the taxpayer's original income tax return;

(2) An election required to be exercised by the filing of a claim for credit or refund, unless the election is required to be exercised on or before a date which precedes the date of expiration of the period of limitations provided in section 6511;

(3) An election required to be filed in a petition to the Tax Court;

(4) An application for permission to change a previous election;

(5) An application for permission to change an accounting method as described in §§ 1.77–1 and 1.446–1;

(6) An application for permission to change an accounting period as described in § 1.442–1; or

(7) An application for permission to change the method of treating bad debts as described in § 1.166–1.

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

Approved: March 22, 1991.

Kenneth W. Gideon,
Assistant Secretary of the Treasury.

[FR Doc. 91–8078 Filed 4–4–91; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CCGD8–91–07]

Special Local Regulations: The Texas Outboard Shootout, San Jacinto River at Banana Beach Park, Harris County, TX

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special local regulations are being adopted for the Texas Outboard Shootout. This event will be held on April 6 and 7, 1991 from noon until 7 p.m. on the San Jacinto River at Banana Beach Park, Harris County, TX. These regulations are needed to provide for the safety of life on the navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on April 6, 1991 at 11:30 a.m. and terminate on April 7, 1991 at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: LT Scott P. LaRochelle, Operations Officer, U.S. Coast Guard Group Galveston. Tel: (409) 766–5603.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 533, a notice of proposed rulemaking has not been published and good cause exists for making them effective in less than 30 days from publication. Following normal rulemaking procedures would have been impracticable. The details of this event were not finalized until March 13, 1991 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date. Nevertheless, interested persons wishing to comment may do so by submitting written views, data or arguments. Commenters should include their name and address, identify this notice (CCGD8–91–07) and the specific section of this proposal to which the comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope is enclosed. The

regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are LT Scott P. LaRochelle, Project Officer, Coast Guard Group Galveston, Texas, and LT J.A. Wilson, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The marine event requiring this regulation is a powered boat race called the "Texas Outboard Shootout". This event is sponsored by the Deep South Racing Association. It will consist of approximately 60 open hull outboard motor race boats from 14 to 21 feet in length operating at high speeds. The course to be followed by the race will be marked by patrol vessels positioned at various points along its route. No spectator boats are expected for this event. While viewing the event at any point outside the regulated area is not prohibited, spectators will be encouraged to congregate within areas designated by the sponsor. Non-participating vessels will be permitted to transit the area at NO WAKE SPEED every hour on the hour with the permission of the patrol commander.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35 T8-91-07 is added to read as follows:

§ 100.35 T8-91-07 Harris County, TX.

(a) *Regulated area.* The following area will be closed to all vessel traffic: The San Jacinto River from the boat ramp at Sharp Bend, Banana Beach Park to one quarter nautical mile north of the ramp except vessels participating in the Texas Outboard Shootout.

(b) *Special local regulation.* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol the event.

(1) No spectator shall anchor, block, loiter in or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(2) When hailed and or signaled, by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The patrol commander is empowered to forbid and control the movement of all vessels in the regulated area. He may terminate the event at any time it is deemed necessary for the protection of life and/or property. He may be reached on VHF-FM Channel 16, when required by the call sign "PATCOM".

(c) *Effective dates.* These regulations will be effective from 11:30 a.m. on April 6, 1991 and terminate at 7:30 p.m. on April 7, 1991.

Dated: March 27, 1991.

J. M. Loy,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 91-7959 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-14-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095-AA04

Procedures for Transfer of Records to Federal Records Centers

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: The National Archives and Records Administration (NARA) is revising certain procedures in 36 CFR 1228.152(e) relating to the transfer of records to Federal records centers. This regulation affects Federal agencies.

The first revision, affecting permanent records and unscheduled records proposed for permanent retention, requires agencies to attach folder title lists or equivalent detailed records descriptions of the contents of boxes being retired to a Federal records center. The information will assist NARA in ensuring that the records are properly preserved.

The second revision restricts transfer of permanent microforms to two records centers, the Washington National Records Center and the National Personnel Records Center—Civilian Personnel Records, to ensure that these records are stored in vaults which meet the stringent specifications for storage of permanent microforms.

The third revision affects all transfers of records to Federal records centers. Agencies will need to submit only an original and one copy of the Standard Form 135 when proposing the transfer of records. This revision eliminates preparation of one copy of the form.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Mary Ann Palmos or Nancy Allard at 202-501-5110 (FTS 241-5110).

SUPPLEMENTARY INFORMATION:

These revisions were published on November 7, 1990, as a notice of proposed rulemaking (55 FR 46828). Comments were received from three agencies.

One agency asked what form or format should be used for the detailed folder title list. We have modified paragraph (e)(1) to state that agencies should prepare the list on plain paper.

Another agency raised several objections to restricting the transfer of permanent microforms to only two records centers. The first objection concerned the separation of permanent microforms from associated paper records. The agency was concerned that the regulation would complicate agency retrieval of records in an emergency. The agency also believed that the regulation sets a precedent whereby material is retired to different centers based on record media and that this may discourage agencies from developing multimedia records management systems. Finally, the agency had several concerns relating to a misunderstanding that the regulation also affects permanent records that have been accessioned into the National Archives.

Paragraph (e)(3) applies only to records retired to the Federal records center for inactive storage prior to being accessioned into the National Archives of the United States. In the interest of Government economy, we have decided to consolidate storage of permanent microforms at a limited number of sites where the proper storage conditions can be provided.

If a series of permanent microform records is essential to the continued functioning of an organization during and after an emergency, the agency should store duplicate "vital record" copies of the microforms at or near emergency headquarters.

While we do not have plans at this time to store records on other special media only in specific centers, we can envision a time when permanent electronic records, paper records, microforms, and other special media are stored in separate records centers,

based upon the unique storage requirements of these materials. However, we believe that establishment of media-specific records centers will encourage, not discourage, development of multimedia records management systems by agencies. In addition to better ensuring the permanent retention of the records by providing them with the optimum storage environment, media-specific records centers should expedite retrieval of information by agencies. A records center devoted exclusively to the storage of electronic records might be able to respond to an agency reference request within minutes electronically, instead of mailing the records.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1228

Archives and records.

For the reasons set forth in the preamble, part 1228 of chapter XII of title 36 of the Code of Federal Regulations is amended as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. 2101–2111, 2901–2902, 3101–3107, 3301–3314.

2. Section 1228.152 is amended by revising paragraph (e) to read as follows:

§ 1228.152 Procedures for transfers to Federal records centers.

* * * * *

(e) Transfers to Federal records centers shall be preceded by the submission of Standard Form 135, Records Transmittal and Receipt.

(1) A separate accession number is required for each series of records listed on the Standard Form 135. An accession consists of records in one series that have the same disposition authority and disposition date.

(2) Standard Forms 135 proposing the transfer of the following categories of records must be accompanied by a folder title list of the box contents or equivalent detailed records descriptions, prepared on plain paper, and each accession must be listed on a separate SF 135:

(i) Records scheduled for permanent retention;

(ii) Unscheduled records (if authorized for transfer by NARA in accordance with paragraph (a)(1)(i) of this section) which have been proposed for permanent retention on the pending SF 135;

(iii) Records which are scheduled for sampling or selecting files for permanent retention by the National Archives; and

(iv) Records for which the agency has implemented the sampling or selection technique specified in the agency records control schedule to separate permanent and disposable records.

(3) Permanent microforms from offices in the Washington, DC, area are stored at the Washington National Records Center. Permenent microforms from all other offices are stored at the National Personnel Records Center—Civilian Personnel Records. Submit Standard Forms 135 proposing the transfer of permanent microforms to the appropriate center. (See 36 CFR 1230.22 for inspection requirements for microforms transferred to a Federal records center.)

(4) Agencies shall prepare an original and two copies of the Standard Form 135, retain one copy for filing purposes, and send the original and one copy to the Federal records center to arrive at least 10 workdays before the desired date of the records shipment. The records center will review the Standard Form 135 for completeness to determine the appropriateness of the transfer. If the transfer is approved, the records center may annotate block 6J of the Standard Form 135 with the Federal records center shelf location where each accession will be stored. The Federal records cener returns a copy of the Standard Form 135 to the agency indicating that the records may be transferred. This copy shall be placed in the first carton of the shipment when the records are shipped to the center.

* * * * *

Dated: March 12, 1991.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 91–7968 Filed 4–4–91; 8:45 am]

BILLING CODE 7515–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–531; RM–7497]

Television Broadcasting Services; Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF television Channel 23– to Tuscaloosa, Alabama, as that community's third local commercial television broadcast service, in response to a petition filed on behalf of Black Warrior Broadcasting. See 55 FR 47779, November 15, 1990. Coordinates for Channel 23– at Tuscaloosa are 33–08–16 and 87–30–26.

Although the Commission has imposed a freeze on new television allotments in certain metropolitan areas pending the outcome of an inquiry into the uses of advanced television systems (ATV) in broadcasting, Tuscaloosa is not in one of the areas affected thereby. See Order, 52 FR 28346, July 29, 1987. With this action, the proceeding is terminated.

EFFECTIVE DATE: May 17, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–531, adopted March 22, 1991, and released April 2, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Alabama, is amended by adding Channel 23– at Tuscaloosa.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8065 Filed 4–4–91; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 56, No. 66
Friday, April 5, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-89-210]

Green Corn; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would revise the United States Standards for Grades of Green Corn. The Florida Sweet Corn Exchange and the Zellwood Sweet Corn Exchange, which represent the majority of sweet corn growers in Florida, have requested that the standards be revised to bring them into conformity with current cultural, harvesting and marketing practices. The Agricultural Marketing Service (AMS), in cooperation with industry, has the responsibility to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

DATES: Comments must be postmarked or courier dated on or before May 6, 1991.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 2056, South Building, Washington, DC 20090-6456.

Comments should make reference to the date and page numbers of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marlene M. Betts, at above address or call (202) 447-2188.

SUPPLEMENTARY INFORMATION: This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and criteria contained in Executive Order 12291 and has been determined to be a "nonmajor" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule for the revision of U.S. Standards for Grades of Green Corn will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the application of these standards is voluntary, so members of the sweet corn industry need not have their product certified under these standards, thereby incurring no cost at all.

The United States Standards for Grades of Green Corn were last revised in May 1954. The standards are issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). The Florida Sweet Corn Exchange and the Zellwood Sweet Corn Exchange, (the Exchanges), which represent the majority of sweet corn growers in Florida, have requested that the standards be revised in order to bring them into conformity with current cultural, harvesting, and marketing practices. The Exchanges contend that due to changes in harvesting practices (more growers using mechanical harvesters versus hand picking) and new improved varieties, that changes are necessary in the current standards. In addition, new marketing and packaging techniques have resulted in small, consumer size packages of corn. Under the present grade requirements the consumer packaged corn cannot meet any U.S. grade due to requirements as to covering, clipping and trimming and therefore, also cannot be shipped to Canada.

A market survey was drafted by the Fresh Products Branch, and sent to industry personnel and other interested parties for comments, on January 23, 1990. Eleven comments were received from industry and most of these comments are incorporated in the proposal.

The proposal is set forth in order to bring the standards into conformity with current harvesting and marketing practices. In addition, the standards have been reviewed for need, currentness, clarity, and effectiveness as part of a periodic review. Accordingly, the following changes and additions are proposed:

—Presently, the United States Standards are titled "Green Corn." Green Corn consists of two classes commonly known as "sweet" or "sugar" corn and "roasting ears." Roasting ears are an early maturing variety of field corn. Sweet corn is different from other types of corn because of its high sugar content when in the milk and early dough stages, because of its wrinkled, translucent kernels when dry and because it differs genetically by a single gene. After considerable research, it was determined that most corn for public consumption is of the sweet or sugar type, and is generally referred to by the trade as "sweet corn." Therefore, it was decided to change the title to United States Standards for Grades of Sweet Corn. Because of this change, "roasting ears" will no longer be inspected under the U.S. Standards.

—The U.S. Fancy, Husked and the U.S. No. 1, Husked grades will be established to accommodate small, consumer size packages. The proposed grades of U.S. Fancy, Husked and the U.S. No. 1, Husked are similar to the current grades of U.S. Fancy and the U.S. No. 1, respectively, except as to the amount of trimming, covering, clipping and length of cob.

Both current grades require ears to be well trimmed, which means practically free from loose husks with not more than a 6-inch shank. The U.S. Fancy grade requires the ears to be well covered, meaning that the husk enclosing the ear is tight and undisturbed, except for a slight opening at the tip. The U.S. No. 1 grade requires the ears to be fairly well covered, meaning that the husk enclosing the ear is fairly tight and undisturbed, except that an opening may have been made at the tip. Finally, the U.S. Fancy grade states ears shall not be clipped, but the U.S. No. 1 grade allows ears to be clipped on one end of the ear neatly at right angles.

Both of the proposed "Husked" grades require ears to have from 3 to 4 rows of kernels, up to the entire cob, exposed. These grades also require the ears to be properly trimmed, which is defined to require that the loose husks and silks must not materially affect the appearance of the ear and that the shank shall not exceed 1 inch in length. Furthermore, the "husked" grades would require clipped ears to be well clipped. Corn is well clipped if one or both ends of the ear and husk is neatly removed at right angles.

Lastly, the minimum length of the cob would vary according to the grade. The U.S. Fancy shall have cobs not less than 6 inches in length, and the U.S. Fancy, Husked and the U.S. No. 1 shall have cobs not less than 5 inches in length. The U.S. No. 1, Husked shall have cobs not less than 4 inches in length.

—The current standard does not specifically score for the presence of worms in the U.S. No. 1 grade, but does reference the amount of damage they cause. As proposed, the U.S. No. 1 grade would be "free from" worms. This means that any worms on an ear of corn would be scoreable on sight. Thus, sweet corn, graded U.S. No. 1, would be generally more desirable to consumers.

—Currently U.S. No. 2 grade requires that an ear not be poorly filled. This requirement has created difficulty in describing ears which are not fairly well filled but which meet the requirements of the current U.S. No. 2 grade. Therefore, a new definition, "moderately filled," would be established to describe such ears. As proposed, the U.S. No. 2 grade would be changed to require cobs to be at least moderately filled. Therefore, poorly filled cobs would be scoreable, but moderately filled cobs would meet the U.S. No. 2 grade.

—The unclassified designation would be eliminated because it is not a grade and only serves to show that no grade has been applied to the lot. Since this designation is rarely used and may create some confusion in the marketplace, it should be discontinued.

—The "requirement as to count" section pertaining to the number of ears per package and the variation permitted in an individual package is being changed. Currently, packages with 60 ears or less could have 3 ears under count and 5 ears over count. Packages with more than 60 ears could have 4 ears under count and 6 ears over count. As proposed, when packed: 1–10 ears per package no variations would be permitted; 11–25 ears could vary 2 ears under count and 2 ears over count; 26–60 ears could vary 3 ears under count and 5 ears over count; more than 60 ears per package could vary 4 ears under count, 6 ears over count. These proposed changes would make smaller packages more uniform for consumers.

—The "Application of Tolerance" section in the current standard also is not written to specifically deal with small packages. As proposed, the current application of tolerances would be combined and prefaced with "For packages which contain 10 specimens or more." A new section would be added to allow for packages which contain less than 10 specimens. It would allow not more than double the tolerance specified. *Provided, that* for packages which contain 5 specimens or less, individual packages in any lot would not be restricted. However, not more than one specimen which is affected by decay or otherwise seriously damaged and one off-size specimen would be permitted in any package.

—Definitions for "similar varietal characteristics," "well trimmed," "plump and milky," "insect injury," and "fairly well trimmed" would be reworded to better reflect current cultural and marketing conditions. New definitions would be established for "husked," "well clipped," "properly trimmed," and "moderately filled" that would reflect the covering, clipping and trimming requirements for the U.S. Fancy, Husked and U.S. No. 1, Husked grades and the filling of cobs requirement in the U.S. No. 2 grade.

—The current standard lists only mechanical injury or mechanical damage in terms of affected kernels. The proposed standard would list three new types of defects, (bird, disease, and indented kernels) as well as mechanical, in a chart form covering injury, damage, and serious damage. This proposed change would simplify the determination of these defects.

—Finally, the grade standards format itself would be revised and updated to incorporate all of the above mentioned changes, and provide convenient use to the industry.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR part 51 be amended as follows:

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087 as amended, 1090 as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

2. Subpart—United States Standards for Grades of Green Corn (currently consisting of §§ 51.835 through 51.857) is revised to read as follows:

Subpart—United States Standards for Grades of Sweet Corn Grades

Sec.
51.835 U.S. Fancy.
51.836 U.S. Fancy, Husked.
51.837 U.S. No. 1.
51.838 U.S. No. 1, Husked.
51.839 U.S. No. 2.

Tolerances

51.840 Tolerances.

Count

51.841 Requirement as to count.

Application of Tolerances

51.842 Application of tolerances.

Definitions

51.843 Definitions.

Classification of Defects

51.844 Classification of defects.

Subpart—United States Standards for Grades of Sweet Corn

Grades

§ 51.835 U.S. Fancy.

U.S. Fancy consists of ears of sweet corn which meet the following requirements:

(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Well trimmed; and,
(3) Well developed.
(b) Free from:
(1) Smut;
(2) Worms;
(3) Insect or worm injury; and,
(4) Decay.
(c) Free from injury caused by:
(1) Rust;
(2) Discoloration;
(3) Birds;
(4) Mechanical;
(5) Disease; and,
(6) Other means. (See § 51.843)
(d) Cobs shall be fairly well filled with plump and milky kernels and well covered with fresh husks.
(e) Ears shall not be clipped.
(f) The length of each cob shall be not less than 6 inches.

(g) For tolerances see § 51.840.

§ 51.836 U.S. Fancy, Husked.

U.S. Fancy, Husked consists of husked ears of sweet corn which meet the requirements of the U.S. Fancy grade except those pertaining to amount of covering, trimming, clipping and length of cob. Sweet corn of this grade shall be:

(a) Husked (any remaining husk must be fresh).

(b) Properly trimmed.

(c) Each ear may be clipped at one or both ends, but each clipped ear must be well clipped.

(d) The length of each cob clipped or unclipped, shall be not less than 5 inches, unless otherwise specified.

(e) For tolerances see § 51.840.

§ 51.837 U.S. No. 1.

U.S. No. 1 consists of ears of sweet corn which meet the following requirements:

(a) Basic requirements:

(1) Similar varietal characteristics;

(2) Well trimmed; and,

(3) Well developed.

(b) Free from:

(1) Smut;

(2) Worms; and,

(3) Decay.

(c) Free from injury caused by:

(1) Rust.

(d) Free from damage caused by:

(1) Discoloration;

(2) Birds;

(3) Worms;

(4) Other insects;

(5) Disease;

(6) Mechanical; and,

(7) Other means. (See § 51.843)

(e) Cobs shall be fairly well filled with plump and milky kernels and fairly well covered with fresh husks.

(f) Each ear may be clipped, but each clipped ear shall be properly clipped.

(g) The length of each cob, clipped or unclipped, shall be not less than 5 inches, unless otherwise specified.

(h) For tolerances see § 51.840.

§ 51.838 U.S. No. 1, Husked.

U.S. No. 1, Husked consists of husked ears of sweet corn which meet the requirements of the U.S. No. 1 grade except those pertaining to amount of covering, trimming, clipping and length of cob. Sweet corn of this grade shall be:

(a) Husked (any remaining husk must be fresh).

(b) Properly trimmed.

(c) Each ear may be clipped at one or both ends, but each clipped ear must be well clipped.

(d) The length of each cob clipped or unclipped, shall be not less than 4 inches, unless otherwise specified.

(e) For tolerances see § 51.840.

§ 51.839 U.S. No. 2.

U.S. No. 2 consists of ears of sweet corn which meet the following requirements:

(a) Basic requirements:

(1) Similar varietal characteristics;

(2) Fairly well trimmed; and,

(3) Fairly well developed.

(b) Free from:

(1) Smut; and,

(2) Decay.

(c) Free from serious damage caused by:

(1) Birds;

(2) Worms;

(3) Other insects;

(4) Disease;

(5) Mechanical; and,

(6) Other means. (See § 51.843)

(d) Cobs shall be at least moderately filled with plump and milky kernels and fairly well covered with fresh husks.

(e) Each ear may be clipped, but each clipped ear shall be properly clipped.

(f) The length of each cob, clipped or unclipped, shall be not less than 4 inches, unless otherwise specified.

(g) For tolerances see § 51.840.

Tolerances

§ 51.840 Tolerances.

In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided as specified:

(a) *For defects.* 10 percent in any lot for ears of corn which fail to meet the requirements of the grade, including therein not more than 2 percent for decay.

(b) *For off-size.* 5 percent in any lot for ears of corn which fail to meet the requirements as to length of cob.

Count

§ 51.841 Requirement as to count.

The number of ears of corn in any package may be specified by count or in terms of dozens of half dozens. Variation from the number specified shall be permitted as follows: *Provided,* That the average for the lost is not less than the number specified nor more than two ears greater than the number specified:

Specified No. per package	Variation permitted in individual packages
1–10 ears	0.
11–25 ears	2 ears under count, 2 ears over count.
26–60 ears	3 ears under count, 5 ears over count.
More than 60 ears	4 ears under count, 6 ears over count.

Application of Tolerances

§ 51.842 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified:

(a) For packages which contain 10 specimens or more and a tolerance of 10 percent or more is provided, individual packages in any lot may contain not more than one and one-half times the tolerance specified. For packages which contain 10 specimens or more and a tolerance of less than 10 percent is provided, individual packages may contain not more than double the tolerance specified except that at least one defective and one off-size specimen may be permitted in any package; and,

(b) For packages which contain less than 10 specimens, individual packages in any lot may contain not more than double the tolerance specified, except that at least one defective and one off-size specimen may be permitted in any package: *Provided,* That for packages which contain 5 specimens or less, individual packages in any lot are not restricted as to the percentage of defects: *And provided further,* That not more than one specimens which is affected by decay or otherwise seriously damaged and one off-size specimen may be permitted in any package.

Definitions

§ 51.843 Definitions.

(a) *Similar varietal characteristics* means that the ears in any package have similar kernel color and character of growth. Ears of field corn and sweet corn, or ears having white color kernels, yellow color kernels and mixed color kernels of corn, shall not be mixed.

(b) *Well trimmed* means that the ears are practically free from loose husks and that the shank shall be not more than 3 inches in length and not extend more than one inch beyond the point of attachment of the outside husk.

(c) *Well developed* means that the ears are fairly straight and are not stunted. Nubbins are not well developed ears.

(d) *Insect or worm injury* means that insect or worm frass is present, or there is visible evidence of insect or worm injury.

(e) *Injury* means any defect listed in § 51.844 or any defect which more than slightly affects the appearance, or the edible or shipping quality of the ear. Any one of the following defects, or any

combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as injury:

(1) Rust when the aggregate area on the husk exceeds one square inch, or when the rust extends deeper than 2 layers of husks; and,

(2) Discoloration caused by frost or sprayburn, or similar types of discoloration when affecting an aggregate area of more than 3 square inches on the husk, or when exceeding an aggregate area of 25 percent of the surface of all blades.

(f) *Fairly well filled* means that the rows of kernels show fairly uniform development, and that the appearance and quality of the edible portion of the ear are not materially affected by poorly developed rows. When the ear has not been clipped, not more than one-fourth of the length of the cob may have poorly developed or missing kernels at the tip. When the ear has been clipped, it shall have practically no poorly developed kernels at the tip of the cob. Missing or poorly developed kernels on other parts of the ear shall not aggregate more than one square inch on a cob 6 inches in length, and a proportionally greater area shall be permitted on a longer cob and a proportionally lesser area on a shorter cob.

(g) *Plump and milky* means that the kernels are well developed and the contents have a milky, creamy, or clear jelly-like consistency.

(h) *Well covered* means that the husk enclosing the ear is tight and undisturbed, except that a slight opening may have been made at the tip: *Provided,* That the disturbed part has been properly replaced so that the appearance of the ear is not more than slightly affected.

(i) *Fresh* means that the husks have fairly good green color and are not badly wilted.

(j) *Husked* means that from approximately 3 to 4 rows of kernels are exposed up to the entire cob exposed.

(k) *Well clipped* means that either the end and/or ends of the cob, or the end and/or ends of the cob and husk have been neatly removed approximately at a right angle to the longitudinal axis.

(l) *Properly trimmed* means that the ear is not damaged by loose husks and silks and that the shank shall not extend more than 1 inch from the cob, when present.

(m) *Damage* means any defect listed in § 51.844 or any defect which materially affects the appearance, or the edible or shipping quality of the ear. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(1) Discoloration caused by frost or sprayburn, or similar types of discoloration when affecting an aggregate area of more than 5 square inches on the husk, or when exceeding an aggregate area of 50 percent of the surface of all blades; and,

(2) Worm injury on unclipped ears when extending more than 1½ inches from the tip on an ear 6 inches in length (proportionately greater or lesser amounts permitted on longer or shorter ears, respectively), or when affecting the kernels on other parts of the ear or any worm injury on clipped ears.

(n) *Fairly well covered* means that the husk enclosing the ear is fairly tight and undisturbed except that an opening may have been made at the tip: *Provided,* That the disturbed part has been properly replaced so that the appearance of the ear is not materially affected.

(o) *Properly clipped* means that either end of the cob, or the end of the cob and husk have been neatly removed approximately at a right angle to the longitudinal axis.

(p) *Fairly well trimmed* means that the appearance of the individual ear of corn is not seriously affected by loose husks and that the shank shall not be more than 3 inches in length and not extend more than 2 inches beyond the point of attachment of the outside husk.

(q) *Fairly well developed* means that the ears are not stunted to the extent that the appearance is seriously affected.

(r) *Serious damage* means any defect listed in § 51.844 or any defect which seriously affects the appearance, or the edible or shipping quality of the ear. The following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage: Worm injury on unclipped ears when extending more than 2 inches from the tip on an ear 6 inches in length (proportionately greater or lesser amounts permitted on longer or shorter ears, respectively), or when affecting more than 4 kernels on other parts of the cob, or any worm injury on clipped ears extending more than one-fourth inch from the tip.

(s) *Moderately filled* means that the rows of kernels show fairly uniform development, and that the appearance and quality of the edible portion of the ear are not seriously affected by poorly developed rows. When the ear has not been clipped, more than one-fourth but less than one-third of the length of the cob has poorly developed or missing kernels at the tip. When the ear has been clipped it shall have not more than a slight amount of poorly developed kernels at the tip of the cob. Missing or poorly developed kernels on other parts of the ear shall not aggregate more than one and one-fourth square inches on a cob 6 inches in length, and proportionally greater area shall be permitted on a longer cob and a proportionally lesser area on a shorter cob.

(t) *Poorly filled* means, on unclipped ears, that the edible quality or appearance is affected to a greater extent than that of an ear 6 inches in length which has one-third of the cob at the tip end and aggregate area 1½ inches square on other portions of the ear with undeveloped kernels or open spaces; and means, on clipped ears, that the edible quality or appearance is affected to a greater extent than that of an ear 6 inches in length which has one inch at the tip end and an aggregate area 1½ inches square on other portions of the ear with undeveloped kernels or open spaces.

Classification of Defects

§ 51.844 Classification of defects.

Number of affected kernels allowed for the following defects: Mechanical, Bird,[1] Disease, and Indented Kernels.

Length of cob	Injury	Damage	Serious damage
3 to 6 inches	4	6	8
More than 6 inches to 10 inches	8	12	16
More than 10 inches to 13 inches	12	18	24

Dated: April 1, 1991.

Daniel Haley,

Administrator.

[FR Doc 91-8036 Filed 4-4-91; 8:45 am]

BILLING CODE 3410-02-M

[1] In scoring injury, if more than the number of kernels allowed above are discolored or punctured or if the husks have been penetrated in more than 1 place; damage, if more than the number of kernels allowed above are discolored or punctured or if the husks have been penetrated in more than 2 places; serious damage, if more than the number of kernels allowed above are discolored or punctured or if the husks have been penetrated in more than 3 places.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-36-AD]

Airworthiness Directives; British Aerospace Model BAe 146-300A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146-300A series airplanes, which would require the installation of modified signal summing units (SSU). This proposal is prompted by reports which indicate that certain SSU's were found to have incorrect airspeed law calibration. This condition, if not corrected, could result in the stall identification (stick push) occurring at a higher angle of attack than the angle called for in the design specification; this would adversely affect the controllability of the airplane.

DATES: Comments must be received no later than May 21, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-36-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC , Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-36-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace Model BAe 146-300A series airplanes. There have been recent reports indicating that certain signal summing units (SSU) on Model BAe 146-300A airplanes were found to have incorrect airspeed law calibration when operating in the range of 190 to 240 knots. The stall warning (stick shaker) was not affected, but the stall identification (stick push) was delayed and would occur at a higher angle of attack than the angle called for in the design specification. This condition, if not corrected, could result in the stall identification (stick push) occurring at a higher angle of attack than the angle called for in the design specification; this would adversely affect the controllability of the airplane.

British Aerospace has issued Service Bulletin 27-114-01028B, dated September 26, 1990, which describes procedures to install the modified SSU's (Modification No. HCM01028B). The modification changes the value of two resistors within the SSU. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require the installation of modified SSU's in accordance with the service bulletin previously described.

It is estimated that 5 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. The required parts will be exchanged by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe 146–300A series airplanes; Serial numbers E3118 through E3161, E3163, E3165, and E3169; certificated in any category. Compliance is required within 180 days after the effective date of this AD, unless previously accomplished.

To prevent the stall identification (stick push) from occurring at a higher angle of attack than the angle called for in the design specification which could adversely affect the controllability of the airplane, accomplish the following:

A. Install two signal summing units, Part Number C81606–6, in accordance with British Aerospace Service Bulletin 27–114–01028B, dated September 26, 1990.

B. An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on March 22, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–8002 Filed 4–4–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 47

[Public Notice 1363]

Visas: Documentation of Immigrants Under Section 134 of Public Law 101–649

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish a new part 47 of title 22, Code of Federal Regulations, to implement the provisions of section 134 of Public Law 101–649, Immigration Act of 1990. Section 134 authorizes the issuance, during the course of fiscal years 1991, 1992 and 1993, of 1000 visas to displaced Tibetans, their spouses and children, the beneficiaries of this section.

DATES: Written comments must be received on or before May 6, 1991.

ADDRESSES: Interested persons are invited to submit written comments to: Director, Office of Legislation, Regulations and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations and Advisory Assistance, Visa Office (202) 663–1184.

SUPPLEMENTARY INFORMATION: Section 134 of Public Law 101–649 provides for the issuance of 1000 visas to displaced Tibetans, their spouses and children over the period encompassed by fiscal years 1991, 1992 and 1993. A displaced Tibetan is defined as not only a native of that country but also the son, daughter, grandson or granddaughter of a native of Tibet, who has been residing in India or Nepal since before November 29, 1990, the effective date of Public Law 101–649. Since this provision is time-limited and is unrelated to any of the regular classes of immigrants, the Department believes it appropriate to promulgate the rules governing immigration by the displaced Tibetans in a separate part of title 22 of the Code of Federal Regulations.

Public Law 101–649 Background

Historically, whenever the Congress has seen fit to establish a numerical limitation on the entry of any class of immigrants, it has specified that applications by aliens seeking admission as members of the class be considered in chronological order. Section 134, however, represents a substantial departure from other provisions authorizing the issuance of immigrant visas since it does not prescribe any order in which the applications submitted by beneficiary aliens are to be considered for processing. Where the approval of a visa petition was required for qualification as a member of the class, the chronological order was fixed by the filing date of the required petition. Where members of the class were authorized to apply directly to a consular officer, the chronological order was fixed by the date of submission of the appropriate documentation to the consular officer. Section 134, however, establishes a different method for considering applications by beneficiary aliens, requiring that the available visas be made available in an equitable manner, with preference being given to (1) those most likely to resettle successfully in the United States; and (2) those not firmly resettled in India or Nepal.

Discussion

The Department agrees with the observation by the Congress (at p. 78 of House Report 101–723, which accompanied the bill, H.R. 4300) that these two criteria may seem contradictory. The Department does not, however, perceive them as entirely incompatible. It is true that those most firmly resettled in India or Nepal may also be those most likely to resettle successfully in the United States. On the other hand, the statute clearly contemplates that some of the available visas be issued to those not firmly resettled there, notwithstanding the fact that they may be less likely to resettle successfully in the United States than those who are firmly resettled.

The question, thus, becomes one of dealing with the likelihood of successful resettlement in the United States. The Department does not consider this question as one susceptible of a simple yes or no answer. It is rather one of degree. Moreover, an alien who might appear highly unlikely to resettle successfully in the United States as an individual may nonetheless do so successfully, if appropriate arrangements are made for resettlement assistance and support, both financial and other, on a continuing basis.

This, in turn, raises a very serious question, since no appropriated funds have been made available for resettlement assistance purposes. Thus, the burden of providing such assistance to the extent and for the time necessary will fall solely and exclusively upon private individuals and organizations. If an applicant is young, healthy, has some knowledge of English and a reasonable level of education and/or job skills, the burden may not be a heavy one. In such a case, short-term assistance, coupled with a job offer or the likelihood of work becoming available shortly after arrival may be all that is required.

If, on the other hand, the applicant is one who, for whatever reason, seems at first glance unlikely to be able to resettle successfully, it may be necessary to provide a much more detailed plan, with appropriate resources, for long-term resettlement assistance.

The Department envisions that the two classes to whom the Congress has declared that preference should be given will, in fact, receive all of the available visas. The Department contemplates that the visas would be apportioned

equally between the two classes, with either class entitled to use any visas reserved for the other but not actually used by it.

The report further suggests that the Department should work closely with interested voluntary agencies and the Central Tibetan Administration (CTA), the organization headed by the Dalai Lama which is located in India. After consultation within the Department and with posts in both Nepal and India, the Department has concluded that the most appropriate manner to implement this provision is to provide that applications for visas by beneficiary aliens be submitted through the CTA itself.

The CTA is the organization which represents the Tibetan community, both in India and Nepal, for a wide variety of purposes. The CTA should be well acquainted with the circumstances of individual Tibetans. With the assistance of interested voluntary agencies, the CTA should be able to screen individual Tibetans who might wish to avail themselves of this benefit and forward to the consular officer cases which it believes meet the requirements. Representatives of the CTA can meet with the responsible consular officers to discuss in detail the preparation of dossiers on the candidates. The CTA can use its established contacts with interested voluntary agencies to arrange necessary support for the candidates in the United States, after admission.

The CTA is established in the city of Dharmsala in the Indian state of Hamichal Pradesh, which is within the consular district of the American Embassy at New Delhi. In addition, the CTA maintains an office in New Delhi itself. In order to facilitate the necessary coordination with CTA and the orderly processing of visa applications of beneficiary aliens recommended by CTA, the Department proposes to designate the Embassy at New Delhi as the visa issuing office at which all such applications will be processed, even though some of the beneficiary aliens will be located in Nepal. The Department expects that CTA will ensure that potential beneficiaries located in Nepal are given appropriate consideration under this provision. Also, since New Delhi is on a major air route between Nepal and the United States, requiring a beneficiary from Nepal to make final application for a visa at the Embassy will impose no hardship on the beneficiary as he or she could pass through New Delhi enroute to the United States without inconvenience.

Section 134 of Public Law 101-649 does not waive any of the generally applicable requirements of the Immigration and Nationality Act (INA), as amended, other than the numerical limitations in sections 201 and 202 thereof. Section 47.1 therefore specifies that, except as otherwise specifically provided, the provisions of the INA and of part 42 are applicable to the immigration of displaced Tibetans. Section 47.2 defines "displaced Tibetan" as it is defined in section 134 of Public Law 101-649. Section 47.3 designates the Embassy at New Delhi as the post of visa application for beneficiaries of section 134. Section 47.4 directs the consular officer at New Delhi to establish liaison with the Central Tibetan Administration (CTA) to initiate the process of preparing potential beneficiaries for formal application for a visa and authorizes the consular officer to do likewise with any voluntary agency designated by the CTA as one cooperating with it for this purpose. Section 47.5 establishes criteria for use by the consular officer in determining the likelihood of successful resettlement in the United States in individual cases. Section 47.6 establishes the order in which the consular officer shall consider applications for immigrant visas under sec. 134. Section 47.7 establishes control of the numerical limitation at the Embassy at New Delhi.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 47

Aliens, Immigrants, Numerical limitations, Tibetans, and Visas.

Proposed Regulations

In view of the foregoing, title 22, Code of Federal Regulations, would be amended by adding part 47 to chapter I, Subchapter E-Visas, to read:

PART 47—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER SECTION 134 OF PUBLIC LAW 101-649

Sec.

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847; Sec. 134, 104 Stat. 5001, 8 U.S.C. 1153 note.

§ 47.1 General.

Except as specifically provided in this part, the provisions of the Immigration and Nationality Act, as amended, and of part 42 of this chapter shall apply to applications for, consideration of, and insurance or refusal of immigrant visas under section 134 of Public Law 101-649.

§ 47.2 Definition.

For purposes of this part, a "displaced Tibetan" includes not only a native of Tibet but also the son, daughter, grandson or granddaughter of a person born in Tibet, who has been living continuously in India or Nepal since before November 29, 1990, and the spouse and child, if any, of such person.

§ 47.3 Place of application.

Applications for immigrant visas pursuant to this part shall be submitted to, and adjudicated by consular officers assigned to, the United States Embassy at New Delhi, India.

§ 47.4 Liaison with the Central Tibetan Administration.

The Consular officer at New Delhi shall communicate with representatives of the Central Tibetan Administration (CTA) to inform them of the requirements and procedures for the submission and adjudication of applications for visas pursuant to this part and shall furnish to such representatives copies of Form OF-222 together with instructions concerning completion of that form and the documents required to be submitted with the Form OF-222. The consular officer is also authorized to carry out such activities with representatives of such private voluntary agencies as may be identified by CTA as cooperating with that organization in arranging for the immigration of beneficiaries of section 134 of Public Law 101-649.

§ 47.5 Determination regarding successful resettlement.

A determination that an applicant might resettle successfully in the United States shall be based upon factors including, but not limited to, family or other ties to the United States, marketable job skills, proficiency in English, age, and the nature of the arrangements made for the resettlement and placement of the applicant in the United States after entry.

§ 47.6 Order of consideration.

The consular officer at New Delhi shall give consideration to applications for immigrant visas pursuant to this part in the order in which such applications are received from the CTA for consideration.

§ 47.7 Control of numerical limitation.

(a) Control of the numerical limitation specified in section 134(a) of Public Law

101–649 shall be exercised by the consular officer at New Delhi. The consular officer shall ensure that not more than 1,000 immigrant visas are issued pursuant to this part, except that, if a recipient of an immigrant visa is excluded from admission to the United States and deported or fails to use the immigrant visa before the expiration of its validity, an immigrant visa may be issued in lieu thereof to another qualified alien. Authority to issue immigrant visas pursuant to this part shall expire on September 30, 1993. Within that time period and the overall limitation of 1,000 immigrant visas, there shall be no fiscal year, quarterly, or monthly limitation on the issuance of immigrant visas pursuant to this part.

(b) In issuing immigrant visas pursuant to this Part, the consular officer at New Delhi shall ensure that visas are apportioned equally among aliens most likely to resettle successfully in the United States and those not firmly resettled in India or Nepal. In addition, the consular officer shall ensure that beneficiary aliens physically present in Nepal are given appropriate consideration, taking into account the relative size of the Tibetan communities in India and Nepal, respectively.

Dated: March 15, 1991.

Elizabeth M. Tamposi,

Assistant Secretary for Consular Affairs.

[FR Doc. 91–7958 Filed 4–4–91; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–39–89]

RIN 1545–AN64

Limitation on Passive Activity Losses and Credits—Treatment of Self-Charged Items of Income and Expense

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations describing the treatment of self-charged items of income and expense for purposes of applying the limitations on passive activity losses and passive activity credits. The notice of proposed rulemaking provides generally that when a taxpayer conducts a passive activity through a partnership or S corporation (a "passthrough entity") in which the taxpayer owns a direct or qualifying indirect interest, and has a passive activity deduction for interest expense arising from lending transactions between the passthrough entity and its owners, a certain percentage of any interest income the taxpayer receives as a result of these lending transactions is recharacterized as passive activity gross income. These proposed regulations affect taxpayers subject to the limitations on passive activity losses and passive activity credits and provide them with the guidance necessary to comply with the law.

DATES: Written comments must be received by June 4, 1991. Requests to speak at the public hearing scheduled for Friday, September 6, 1991, and outlines of oral comments must be received by August 23, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register**.

ADDRESSES: Send comments, requests to speak, and outlines of oral comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington DC 20044 (Attention CC:CORP:T:R:(PS–39–89), room 4229).

FOR FURTHER INFORMATION CONTACT: Dexter A. Johnson at (202) 566–4751 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this regulation is in § 1.469–7(f). This information is required by the Internal Revenue Service to determine which passthrough entities elect to avoid application of this regulation. This information will be used to monitor compliance with the regulation. The likely respondents are businesses and other for-profit institutions, including small businesses and organizations.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances. *Estimated total annual reporting burden:* 100 hours. The estimated annual burden per respondent varies from 5 minutes to 15 minutes, depending on individual circumstances, with an estimated average of 6 minutes. *Estimated number of respondents:* 1,000. *Estimated annual frequency of responses (for reporting requirements only):* 1.

Background

This document proposes amendments to title 26 of the Code of Federal Regulations to provide additional rules under section 469 of the Internal Revenue Code of 1986, as amended (the "Code"). Section 469 was added to the Code by sections 501 and 502 of the Tax Reform Act of 1986 (Pub. L. 99–514), and was amended by section 10212 of the Revenue Act of 1987 (Pub. L. 100–203), sections 1005(a), 2004(g) and 6009(c)(3) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647), and section 7109(a) of the Revenue Reconciliation Act of 1989 (Pub. L. 101–239). Section 469 limits the use of passive activity losses and passive activity credits. Section 469(l)(4) provides that the Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of section 469, including regulations that provide for the determination of the allocation of interest expense for purposes of that section.

Temporary regulations under section 469 were published in the **Federal Register** for February 25, 1988 (53 FR 5,686, T.D. 8175), and in the **Federal Register** for May 12, 1989 (54 FR 20,527, T.D. 8253). Those regulations added §§ 1.469–0T through 1.469–5T and 1.469–11T to title 26 of the Code of Federal Regulations, and indicated that regulations addressing the treatment of self-charged items of income and expense would be contained in § 1.469–7T. This document proposes to add rules that recharacterize certain self-charged interest income and certain interest deductions that are properly allocable to the recharacterized interest income.

Explanation of Provisions

I. General Background

Section 469(a)(1)(A) provides that if aggregate losses from passive activities exceed aggregate income from passive activities for the taxable year, the excess losses may not be used to offset income from nonpassive activities, and accordingly are not allowed for the

taxable year. Under section 469(e)(1), certain income is not taken into account in determining the income or loss from passive activities, and instead is considered "portfolio" income. Generally, portfolio income includes income from interest, dividends, annuities, or royalties not derived in the ordinary course of a trade or business.

Under the general rules of section 469(e)(1), certain lending transactions between a passthrough entity and its owner may result in portfolio interest income for the owner that cannot be offset against interest expense arising from the same transaction, because the interest expense is treated as a passive activity deduction under the interest characterization rules in § 1.163–8T. For example, if a partner lends money to a partnership through which the partner conducts a passive activity, the partner's income from the interest charged to the partnership would be portfolio income and the partner's distributive share of the partnership's interest expense would be a passive activity deduction, which could not be used to offset the interest income produced by the loan.

The legislative history of section 469 indicates that this result is inappropriate to the extent the partner is in substance lending to himself. The Conference Report characterized the items of interest income and expense from such a lending transaction as "self-charged" and thus lacking economic significance: "[T]o the extent that a taxpayer receives interest income with respect to a loan to a passthrough entity in which he has an ownership interest, such income should be allowed to offset the interest expense passed through to the taxpayer from the activity for the same taxable year." H.R. Rep. No. 841, 99th Cong., 2d Sess. II–147 (1986), *reprinted in* 1986–3 (Vol. 4) C.B. 147.

II. Scope of § 1.469–7

The proposed regulations address two types of lending transactions: Loans to a passthrough entity by its owners, and loans by a passthrough entity to its owners. Self-charged treatment is permitted only for these two types of transactions.

Under the proposed regulations, a passthrough entity is a partnership or an S corporation and an owner of an interest in such an entity is a person that holds an interest directly (regardless of size) or holds at least a 10-percent interest indirectly. If a passthrough entity both lends to and borrows from its owners, the proposed regulations apply to both types of transactions. However, items of income from one type of transaction are not recharacterized to offset items of deduction from the other type of transaction.

The proposed regulations recharacterize portfolio income and portfolio deductions only when a lending transaction between an entity and its owners results in a passive deduction for an owner. Thus, if an owner borrows from an entity and uses the proceeds to fund personal expenses, the owner's interest deductions will not be passive deductions and, accordingly, no part of the owner's share of the entity's portfolio interest income from the loan will be recharacterized.

III. Application of Rules

The proposed regulations provide rules for determining the extent to which interest income received by an owner of an interest in a passthrough entity from lending transactions between the passthrough entity and its owners may be offset by interest deductions from the transactions. If an owner's interest income from loans to the borrowing entity by the owner or intermediary passthrough entities through which the owner holds an interest in the borrowing entity equals or exceeds the owner's allocable share of all self-charged interest deductions from loans to the borrowing entity by its owners, the regulations provide that an amount of the interest income equal to the self-charged passive interest deductions is recharacterized as passive activity gross income. If an owner's allocable share of all self-charged interest deductions from owner loans to the entity exceeds the interest income, however, a lesser amount is recharacterized based on the ratio of passive interest deductions to total interest deductions. For example, if only one-half of the owner's total interest deductions are passive interest deductions, only one-half of the interest income is recharacterized as passive activity gross income. The regulations allocate this passive interest income among the owner's passive activities in proportion to the passive interest deductions from those activities. Similar rules apply to an owner's allocable share of interest income from loans by the passthrough entity to its owners.

The regulations accomplish these results through a formula under which the amount recharacterized as passive interest income from an activity is determined by multiplying the owner's interest income from the lending transactions by a fraction. In the case of a loan from an owner to the entity, the numerator of the fraction is equal to the owner's share of the entity's self-charged interest deductions (*i.e.*, the entity's interest deductions attributable to loans from owners) that are treated as passive activity deductions from the activity. The denominator of the fraction is equal to the greater of (1) the owner's share of the entity's self-charged interest deductions (whether or not treated as passive deductions from the entity), or (2) the owner's income for the taxable year from interest charged to the entity to the owner or intermediary passthrough entities.

In the case of a loan from a passthrough entity to an owner, the numerator of the fraction is equal to the owner's deductions for the taxable year for interest charged by the entity to the owner or intermediary passthrough entities, to the extent treated as passive activity deductions from the activity. The denominator of the fraction is equal to the greater of (1) the owner's deductions (whether or not treated as passive deductions from the activity) for interest charged by the entity to such persons, or (2) the owner's share of the entity's self-charged interest income (*i.e.*, the owner's share of the entity's interest income on loans made to the owners).

The proposed regulations also contain rules that recharacterize certain interest deductions as passive activity deductions. These rules apply to an owner's deductions for interest expense that is properly allocable to the owner's interest income from lending transactions between the passthrough entity and its owners. In general, interest expense is properly allocable to interest income if the proceeds of the borrowing giving rise to the expense were used to make the loan giving rise to the income.

Ordinarily, interest expense that is properly allocable to interest income would be a portfolio deduction. The proposed regulations provide, however, that if part or all of an owner's interest income from lending transactions between a passthrough entity and its owners is recharacterized as passive income from an activity, the same proportion of any deduction for interest expense that is properly allocable to the income must be recharacterized as a passive deduction from the activity. For example, if an owner obtains a loan from a bank and lends the proceeds to a passthrough entity, the interest expense the owner pays the bank would ordinarily be a portfolio expense. If, however, any of the owner's interest income from the loan to the passthrough entity is recharacterized as passive interest income, the owner's deduction for interest expense paid to the bank is multiplied by the fraction applied in determining the amount of passive interest income and the resulting

amount is treated as a passive activity deduction.

The proposed regulations also provide rules for cases in which more than one owner makes a loan to a passthrough entity or an entity or lends to more than one owner. Although self-charged treatment could be limited to the owner's share of amounts that arise from the owner's own lending transaction, the regulations adopt a broader approach. Under this approach, the owner's share of the passthrough entity's interest expense on loans from all of its owners is taken into account in determining the amounts of interest income and properly allocable interest deductions that are recharacterized as passive. Similarly, in the case of loans from an entity to more than one owner, the owner's share of the entity's interest income on all loans to owners is taken into account in determining the amounts of interest income and properly allocable interest deductions that are recharacterized as passive.

If an owner and the owner's passthrough entity have different taxable years or different accounting methods, the owner may recognize an income item and a related expense item from a transaction involving self-charged interest in different taxable years. In such cases, the expense item will not offset the income item because the self-charged rules apply on an annual basis and, in each taxable year of the owner, are applied by taking into account only the owner's items for the taxable year. The Service, however, invites suggestions from the public for an administrable rule that would provide for a more exact offset of income and related expense items.

IV. Election Out

Section 1.469–7(f) provides a special rule that permits a passthrough entity to elect out of the provisions of § 1.469–7 by attaching a statement to its return for the entity's taxable year. The election applies to all lending transactions between the entity and its owners and is effective for the year in which it is made and all subsequent years until revoked. The election may be revoked only with the consent of the Commissioner.

V. Effective Date

The provisions of § 1.469–7 are proposed to be effective for taxable years beginning after December 31, 1986. For taxable years beginning before June 4, 1991, however, a taxpayer that owns an interest in a passthrough entity is not required to apply these provisions and may use any reasonable method to offset items of interest income and interest expense from lending transactions between the passthrough entity and its owners. A method that offsets items from nonleding transactions between a passthrough entity and its owners is not a reasonable method.

Special Analysis

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations. Therefore, an initial Regulatory Impact Analysis is not required.

Submission to Small Business Administration

Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the rules will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests to Appear at the Public Hearings

Before adopting these proposed regulations, consideation will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing is scheduled for September 6, 1991. See notice of public hearing published elsewhere in this issue of the **Federal Register.**

Drafting Information

The principal author of these regulations is Dexter A. Johnson, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR 1.441–2 through 1.483–2

Accounting, Deferred compensation plans, Income taxes.

Proposed Amendments to the Regulations

Accordinly, title 26, chapter 1, part 1 is proposed to be amended as follows:

Paragraph 1. The authroity for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * Section 1.469–7 also issued under 26 U.S.C. 469(l)(1).

Par. 2. Section 1.469–0T is amended by revising the introductory text, by removing the caption for § 1.469–7T and adding captions for § 1.469–7 in its place, and by revising the captions for § 1.469–11T(a)(2). The revised and added provisions read as follows:

§ 1.469–0T Table of Contents (temporary).

This section lists the captions that appear in the regulations under section 469.

* * * * *

§ 1.469–7 Treatment of self-charged items of interest income and deduction.

(a) In general.
  (1) Applicability and effect of rules.
  (2) Priority of rules in this section.
(b) Definitions.
  (1) Passthrough entity.
  (2) Qualifying indirect interest.
  (3) Taxpayer's share.
  (4) Entity taxable year.
  (5) Deductions for a taxable year.
(c) Taxpayer loans to passthrough entity.
  (1) Applicability.
  (2) General rule.
  (3) Applicable percentage.
(d) Passthrough entity loans to taxpayer.
  (1) Applicability.
  (2) General rule.
  (3) Applicable percentage.
(e) Identification of properly allocable deducations.
(f) Election to avoid application of the rules of this section
  (1) In general.
  (2) Form of election.
  (3) Period for which election applies.
  (4) Revocation.
(g) Examples.

§ 1.469–11T Effective date and transition rules (temporary).

(a) * * *
  (2) Application of certain recharacterization rules and self-charged rules.
  (i) Certain recharacterization rules inapplicable in 1987.
  (ii) Property rented to a nonpassive activity.
  (iii) Self-charged rules.
  (A) In general.
  (B) Reasonable methods.

* * * * *

Par. 4. Section 1.469–7T is removed and § 1.469–7 is added to read as follows:

§ 1.469–7 Treatment of certain lending transactions between taxpayers and passthrough entities.

(a) *In general*—(1) *Applicability and effect of rules.* This section sets forth rules that apply, for purposes of section 469 and the regulations thereunder, in the case of a lending transaction between a taxpayer and a passthrough

entity in which the taxpayer owns a direct or qualifying indirect interest. The rules—

(i) Treat certain interest income resulting from these lending transactions as passive activity gross income;

(ii) Treat certain deductions for interest expense that is properly allocable to such interest income as passive activity deductions; and

(iii) Allocate the passive activity gross income and passive activity deductions resulting from this treatment among the taxpayer's activities.

(2) *Priority of rules in this section.* The character of amounts treated under the rules of this section as passive activity gross income and passive activity deductions and the activities to which these amounts are allocated shall be determined under the rules of this section and not under the rules of §§ 1.163–6T and 1.469–2T (c) and (d).

(b) *Definitions.* The following definitions set forth the meaning of certain terms for purposes of this section:

(1) *Passthrough entity.* The term "passthrough entity" means a partnership or an S corporation.

(2) *Qualifying indirect interest.* The term "qualifying indirect interest" means a 10-percent or greater interest, held through one or more passthrough entities, in the capital and profits of a partnership.

(3) *Taxpayer's share.* A taxpayer's share for a taxable year of an item of income or deduction of a passthrough entity is the amount treated as an item of income or deduction of the taxpayer for the taxable year under section 702 (relating to the treatment of distributive shares of partnership items as items of partners) or section 1366 (relating to the treatment of pro rata shares of S corporation items as items of shareholders).

(4) *Entity taxable year.* In applying this section for a taxable year of a taxpayer, the term "entity taxable year" means the taxable year of the passthrough entity for which the entity reports items that are taken into account under section 702 or section 1366 for the taxpayer's taxable year.

(5) *Deductions for a taxable year.* The term "deductions for a taxable year" means deductions that would be allowable for the taxable year if the taxpayer's taxable income for all taxable years were determined without regard to sections 163(d), 170(b), 469, 613A(d), and 1211.

(c) *Taxpayer loans to passthrough entity*—(1) *Applicability.* Except as provided in paragraph (f) of this section, this paragraph (c) applies with respect to a taxpayer's interest in a passthrough entity (borrowing entity) for a taxable year if—

(i) The borrowing entity has deductions for the entity taxable year for interest charged to the borrowing entity by persons that own direct or qualifying indirect interests in the borrowing entity at any time during the entity taxable year (the borrowing entity's self-charged interest deductions);

(ii) The taxpayer owns a direct or qualifying indirect interest in the borrowing entity at any time during the entity taxable year and has gross income for the taxable year from interest charged to the borrowing entity by the taxpayer or a passthrough entity through which the taxpayer holds an interest in the borrowing entity (the taxpayer's income from interest charged to the borrowing entity); and

(iii) The taxpayer's share of the borrowing entity's self-charged interest deductions includes passive activity deductions.

(2) *General rule.* If any of the borrowing entity's self-charged interest deductions are allocable to an activity for a taxable year in which this paragraph (c) applies, the passive activity gross income and passive activity deductions from that activity are determined under the following rules:

(i) The applicable percentage of each item of the taxpayer's income for the taxable year from interest charged to the borrowing entity is treated as passive activity gross income from such activity; and

(ii) The applicable percentage of each deduction for the taxable year for interest expense that is properly allocable (within the meaning of paragraph (e) of this section) to the taxpayer's income from interest charged to the borrowing entity is treated as a passive activity deduction from the activity.

(3) *Applicable percentage.* In applying this paragraph (c) with respect to a taxpayer's interest in a borrowing entity, the applicable percentage is separately determined for each of the taxpayer's activities. The percentage applicable to an activity for a taxable year is obtained by dividing—

(i) The taxpayer's share for the taxable year of the borrowing entity's self-charged interest deductions that are treated as passive activity deductions from the activity by

(ii) The greater of—

(A) The taxpayer's share for the taxable year of the borrowing entity's self-charged interest deductions (regardless of whether these deductions are treated as passive activity deductions); or

(B) The taxpayer's income for the taxable year from interest charged to the borrowing entity.

(d) *Passthrough entity loans to taxpayer*—(1) *Applicability.* Except as provided in paragraph (f) of this section, this paragraph (d) applies with respect to a taxpayer's interest in a passthrough entity (lending entity) for a taxable year if—

(i) The lending entity has gross income for the entity taxable year from interest charged by the lending entity to persons that own direct or qualifying indirect interests in the lending entity at any time during the entity taxable year (the lending entity's self-charged interest income);

(ii) The taxpayer owns a direct or qualifying indirect interest in the lending entity at the end of the entity taxable year and has deductions for the taxable year for interest charged by the lending entity to the taxpayer or a passthrough entity through which the taxpayer holds an interest in the lending entity (the taxpayer's deductions for interest charged by the lending entity); and

(iii) The taxpayer's deductions for interest charged by the lending entity include passive activity deductions.

(2) *General rule.* If any of the taxpayer's deductions for interest charged by the lending entity are allocable to an activity for a taxable year in which this paragraph (d) applies, the passive activity gross income and passive activity deductions from that activity are determined under the following rules:

(i) The applicable percentage of the taxpayer's share for the taxable year of each item of the lending entity's self-charged interest income is treated as passive activity gross income from such activity.

(ii) The applicable percentage of the taxpayer's share for the taxable year of each deduction for interest expense that is properly allocable (within the meaning of paragraph (e) of this section) to the lending entity's self-charged interest income is treated as a passive activity deduction from such activity.

(3) *Applicable percentage.* In applying this paragraph (d) with respect to a taxpayer's interest in a lending entity, the applicable percentage is separately determined for each of the taxpayer's activities. The percentage applicable to an activity for a taxable year is obtained by dividing—

(i) The taxpayer's deductions for the taxable year for interest charged by the lending entity, to the extent treated as

passive activity deductions from the activity, by

(ii) The greater of—

(A) The taxpayer's deductions for the taxable year for interest charged by the lending entity (regardless of whether these deductions are treated as passive activity deductions); or

(B) The taxpayer's share for the taxable year of the lending entity's self-charged interest income.

(e) *Identification of properly allocable deductions.* For purposes of this section, interest expense is properly allocable to an item of interest income if the interest expense is allocated under § 1.163–8T to an expenditure that—

(1) Is properly chargeable to capital account with respect to the investment producing such item of interest income; or

(2) May reasonably be taken into account as a cost of producing such item of interest income.

(f) *Election to avoid application of the rules of this section*—(1) *In general.* Paragraphs (c) and (d) of this section shall not apply with respect to any taxpayer's interest in a passthrough entity for a taxable year if the passthrough entity has made, under this paragraph (f), an election that applies to the entity taxable year.

(2) *Form of election.* A passthrough entity makes an election under this paragraph (f) by attaching to its return (or amended return) a written statement that includes the name, address, and taxpayer identification number of the passthrough entity and a declaration that an election is being made under this paragraph (f).

(3) *Period for which election applies.* An election under this paragraph (f) made with a return (or amended return) for a taxable year applies to that taxable year and all subsequent taxable years that and before the date on which the election is revoked.

(4) *Revocation.* An election under this paragraph (f) may be revoked only with the consent of the Commissioner.

(g) *Examples.* The following examples illustrate the principles of this section. The lending transactions described in the examples do not result in foregone interest (within the meaning of section 7872(e)(2)), original issue discount (within the meaning of section 1273), or total unstated interest (witin the meaning of section 483(b)).

Example (1). (i) A and B, two calendar year individuals, each own 50-percent interests in the capital, profits and losses of AB, a calendar year partnership. AB is engaged in a single rental activity within the meaning of § 1.469–1T(e)(3). AB borrows $50,000 from A and uses the loan proceeds in the rental activity. AB pays $5,000 of interest to A for the taxable year. A and B each incur $2,500 of interest expense as their distributive share of AB's interest expense.

(ii) Paragraph (c) of this section applies in determining A's passive activity gross income, because (a) AB has self-charged interest deductions for the taxable year (*i.e.*, the deductions for interest charged to AB by A), (b) A owns a direct interest in AB during AB's taxable year and has income for A's taxable year from interest charged to AB, and (c) A's share of AB's self-charged interest deductions includes passive activity deductions. See paragraph (c)(1) of this section.

(iii) Under paragraph (c)(2)(i) of this section, the applicable percentage of A's interest income is recharacterized as passive activity gross income from AB's rental activity. Paragraph (c)(3) of this section provides that the applicable percentage is obtained by dividing A's share for the taxable year of AB's self-charged interest deductions that are treated as passive activity deductions from the activity ($2,500) by the greater of (a) A's share for the taxable year of AB's self-charged interest deducations ($2,500), or (b) A's income for the taxable year from interest charged to AB ($5,000). Thus, A's applicable percentage is 50 percent ($2,500/$5,000), and $2,500 (50 percent × $5,000) of A's income from interest charged to AB is treated as passive activity gross income from the passive activity A conducts through AB.

(iv) Because B does not have any gross income for the year from interest charged to AB, this section does not apply to B. See paragraph (c)(1)(ii) of this section.

Example (2). (i) C and D, two calendar year taxpayers, each own 50-percent interests in the capital and profits of CD, a calendar year partnership. CD is engaged in a single rental activity, within the meaning of § 1.469–1T(e)(3). C obtains a $10,000 loan from a third-party lender, and pays the leader $900 in interest for the taxable year. C lends the $10,000 to CD, and receives $1,000 of interest income from CD for the taxable year. D lends $20,000 to CD and receives $2,000 of interest income from CD for the taxable year. CD uses all of the proceeds in the rental activity. C and D are each allocated $1,500 (50 percent × $3,000) of interest expense as their distributive share of CD's interest expense for the taxable year.

(ii) Paragraph (c) of this section applies in determining C's and D's passive activity gross income, because (a) CD has self-charged interest deductions for the taxable year (*i.e.* deductions for interest charged to CD by C and D), (b) C and D each own direct interests in CD during CD's taxable year and have gross income for the taxable year for interest charged to CD, and (c) both C's and D's shares of CD's self-charged interest deducations include passive activity deductions. See paragraph (c)(1) of this section.

(iii) Under paragraph (c)(2)(i) of this section, the applicable percentage of each partner's interest income is recharacterized as passive activity gross income from CD's rental activity. Paragraph (c)(3) of this section provides that C's applicable percentage is obtained by dividing C's share for the taxable year of CD's self-charged interest deductions that are treated as passive activity deductions from the activity ($1,500) by the greater of (a) C's share for the taxable year of CD's self-charged interest deductions ($1,500), or (b) C's income for the taxable year from interest charged to CD ($1,000). Thus, C's applicable percentage is 100 percent ($1,500/$1,500), and all of C's income from interest charged to CD ($1,000) is treated as passive activity gross income from the passive activity C conducts through CD. Similarly, D's applicable percentage is obtained by dividing D's share for the taxable year of CD's self-charged interest deductions that are treated as passive activity deductions from the activity ($1,500) by the greater of (a) D's share for the taxable year of CD's self-charged interest deductions ($1,500), or (b) D's income for the taxable year from interest charged to CD ($2,000). Thus, D's applicable percentage is 75 percent ($1,500/$2,000), and $1,500 (75 percent × $2,000) of D's income from interest charged to CD is treated as passive activity gross income from the rental activity.

(iv) The $900 of interest expense that C pays to the third-party lender is allocated under § 1.163–8T(c)(1) to an expenditure that is properly chargeable to capital account with respect to the loan to CD. Thus, the expense is properly allocable to the interest income C receives from CD (see paragraph (e) of this section). Under paragraph (c)(2)(ii) of this section, the applicable percentage of C's deductions for the taxable year for interest expense that is properly allocable to C's income from interest charged to CD is recharacterized as a passive activity deduction from CD's rental activity. Accordingly, all of C's $900 interest deduction is treated as a passive activity deduction from the rental activity.

Example (3). (i) E and F, calendar year taxpayers, each own 50 percent of the stock of X, a calendar year S corporation. E borrows $30,000 from X, and pays X $3,000 of interest for the taxable year. E uses $15,000 of the loan proceeds to make a personal expenditure (as defined in § 1.163–8T(b)(5)), and uses $15,000 of loan proceeds to purchase a trade or business activity in which E does not materially participate (within the meaning of § 1.469–5T) for the taxable year. E and F each receive $1,500 as their pro rata share of X's interest income from the loans for the taxable year.

(ii) Paragraph (d) of this section applies in determining E's passive activity gross income, because (a) X has gross income for X's taxable year from interest charged to E and F (X's self-charged interest income), (b) E owns a direct interest in X during X's taxable year and has deductions for the taxable year for interest charged by X, and (c) E's deductions for interest charged by X include passive activity deductions. See paragraph (d)(1) of this section.

(iii) Under the rules in paragraph (d)(2)(i) of this section, the applicable percentage of E's share of X's self-charged interest income is recharacterized as passive activity gross income from the activity. Paragraph (d)(3) of this section provides that the applicable percentage is obtained by dividing E's

deductions for the taxable year for interest charged by X, to the extent treated as passive activity deductions from the activity ($1,500), by the greater of (a) E's deductions for the taxable year for interest charged by X, regardless of whether those deductions are treated as passive activity deductions (3,000), or (b) E's share for the taxable year of X's self-charged interest income ($1,500). Thus, E's applicable percentage is 50 percent ($1,500/$3,000), and $750 (50 percent×$1,500) of E's share of X's self-charged interest income is treated as passive activity gross income.

(iv) Because F does not have any deductions for the taxable year for interest charged by X, this section does not apply to F. See paragraph (d)(1)(ii) of this section.

Example (4). (i) This example illustrates the application of this section to a partner that has a different taxable year from the partnership. The facts are the same as in *Example 1* except as follows: (a) Partnership AB has properly adopted a fiscal year ending June 30 for Federal tax purposes; (b) AB borrows the $50,000 from A on September 1, 1990; and (c) under the terms of the loan, AB must pay A $5,000 in interest annually, in quarterly installments, for a term of 2 years.

(ii) For A's taxable years from 1990 through 1993 and AB's corresponding entity taxable years (as defined in paragraph (b)(4) of this section) A's interest income and AB's interest deductions from the loan are as follows:

	A's interest income	AB's interest deductions
1990	$1,250	$0
1991	$5,000	$3,750
1992	$3,750	$5,000
1993	0	$1,250

(iii) For A's taxable year ending December 31, 1990, the corresponding entity taxable year is AB's taxable year ending June 30, 1990. Because AB does not have any deductions for the entity taxable year for interest charged to AB by its owners paragraph (c) of this section does not apply in determining A's passive activity gross income for 1990 (see paragraph (c)(1)(i) of this section). Accordingly, A reports $1,250 of portfolio income on A's 1990 income tax return.

(iv) For A's taxable year ending December 31, 1991, the corresponding entity taxable year ends on June 30, 1991. Paragraph (c) of this section applies in determining A's passive activity gross income because (a) AB has $3,750 of deductions for the entity taxable year for interest charged to AB by its owners (AB's self-charged interest deductions), (b) A owns a direct interest in AB during the entity taxable year and has $5,000 of interest income for A's taxable year from interest charged to AB, and (c) A's share of AB's self-charged interest deductions includes passing activity deductions.

(v) Under paragraph (c)(2)(i) of this section, the applicable percentage of A's 1991 interest income is recharacterized as passive activity gross income from the activity. Paragraph (c)(3) of this section provides that the applicable percentage is obtained by dividing A's share for A's 1991 taxable year of AB's self-charged interest deductions that are treated as passive activity deductions from the activity (50 percent×$3,750=$1,875) by the greater of (a) A's share for A's taxable year of AB's self-charged interest deductions ($1,875), or (b) A's income for A's taxable year from interest charged to AB ($5,000). Thus, A's applicable percentage is 37.5 percent ($1,875/$5,000), and $1,875 (37.5 percent×$5,000) of A's income from interest charged to AB is treated as passive activity gross income from the passive activity A conducts through AB.

(vi) For A's taxable year ending December 31, 1992, the corresponding entity taxable year ends on June 30, 1992. Paragraph (c) of this section applies in determining A's passive activity gross income because (a) AB has $5,000 of deductions for the entity taxable year for interest charged to AB by its owners (AB's self-charged interest deductions, (b) A owns a direct interest in AB during the entity taxable year and has $3,750 of gross income for A's taxable year from interest charged to AB, and (c) A's share of AB's self-charged interest deductions includes passive activity deductions.

(vii) The applicable percentage for 1992 is obtained by dividing A's share for A's 1992 taxable year of AB's self-charged interest deductions that are treated as passive activity deductions from the activity ($2,500) by the greater of (a) A's share for A's taxable year of AB's self-charged interest deductions ($2,500), or (b) A's income for A's taxable year from interest charged to AB ($3,750). Thus, A's applicable percentage is 66⅔ percent ($2,500/$3,750), and $2,500 (66⅔ percent × $3,750) of A's income from interest charged to AB is treated as passive activity gross income from the passive activity A conducts through AB.

(viii) Paragraph (c) of this section does not apply in determining A's passive activity gross income for the taxable year ending December 31, 1993, because A has no gross income for the taxable year from interest charged to AB (see paragraph (c)(1) (ii) of this section). A's share of AB's self-charged interest deductions for the entity taxable year ending June 30, 1993 ($625) is taken into account as a passive activity deduction on A's 1993 income tax return.

(ix) Because B does not have any gross income from interest charged to AB for any of the taxable years, this section does not apply to B. See paragraph (c)(1)(ii) of this section.

Example (5). (i) This example illustrates the application of the rules of this section in the case of a taxpayer who has a qualifying indirect interest in a partnership. G, a calendar year taxpayer, is an 80-percent partner in partnership UTP. H, a calendar year taxpayer, owns a 20-percent interest in UTP. UTP owns a 25-percent interest in the capital and profits of partnership LTP. UTP and LTP are both calendar year partnerships. The partners of LTP conduct a single passive activity through LTP. UTP obtains a $10,000 loan from a bank, and pays the bank $1,000 of interest per year. G's distributive share of the interest paid to the bank is $800 (80 percent × $1,000), and H's distributive share of the interest paid to the bank is $200 (20 percent × $1,000). UTP uses the $10,000 debt proceeds and another $10,000 of cash to make a loan to LTP, and LTP pays UTP $2,000 of interest for the taxable year. G's distributive share of interest income attributable to the UTP-to-LTP loan is $1,600 (80 percent × $2,000). H's distributive share of interest income attributable to the UTP–LTP loan is $400 (20 percent × $2,000). LTP uses all of the proceeds received from UTP in the passive activity. UTP's distributive share of interest expense attributable to the UTP-to-LTP loan is $500 (25 percent × $2,000). G's distributive share of interest expense attributable to the UTP-to-LTP loan is $400 (80 percent × $500). H's distributive share of interest expense attributable to the UTP-to-LTP loan is $100 (20 percent × $500).

(ii) Pargraph (b)(2) of this section defines a qualifying indirect interest as a 10-percent or greater interest, held through one or more passthrough entities, in the capital and profits of a partnership entities, in the capital and profits of a partnership. G's indirect interest in LTP is a qualifying indirect interest, because G indirectly owns a 20-percent (80 percent × 25 percent) interest in the capital and profits of LTP. H, however, does not own a qualifying indirect interest in LTP, because H has only a 5-percent (20 percent × 25 percent) interest in LTP's capital and profits. Accordingly, this section does not apply to H.

(iii) Paragraph (c) of this section applies in determining G's passive activity gross income because (a) LTP has deductions for interest charged to LTP by UTP for the taxable year (LTP's self-charged interest deductions), (b) G owns a qualifying indirect interest in LTP during LTP's taxable year and has gross income for the taxable year from interest charged to LTP by a passthrough entity (UTP) through which G owns an interest in LTP, and (c) G's share of LTP's self-charged interest deductions includes passive activity deductions. See paragraph (c)(1) of this section.

(iv) Under paragraph (c)(2)(i) of this section, the applicable percentage of G's interest income is recharacterized as passive activity gross income from the activity. Paragraph (c)(3) of this section provides that the applicable percentage is obtained by dividing G's share for the taxable year of LTP's self-charged interest deductions that are treated as passive activity deductions from the activity ($400) by the greater of (a) G's share for the taxable year of LTP's self-charged interest deductions ($400), or (b) G's income for the year from interest charged to LTP ($1,600). Thus, G's applicable percentage is 25 percent ($400/$1,600), and $400 (25 percent × $1,600) of G's income from interest charged to LTP is treated as passive activity gross income from the passive activity that G conducts through UTP and LTP.

(v) G's $800 distributive share of the interest expense that UTP pays to the third-party lender is allocated under § 1.163–8T(c)(1) to an expenditure that is properly chargeable to capital account with respect to the loan to LTP. Thus, the expense is a deduction properly allocable to the interest income that G receives as a result of the UTP-to-LTP loan (see paragraph (e) of this section). Under paragraph (c)(2)(ii) of this section, the applicable percentage of G's deductions for the taxable year for interest

charged by UTP to LTP is recharacterized as a passive activity deduction from LTP's passive activity. Accordingly, $200 (25 percent × $800) of G's interest deduction is treated as a passive activity deduction from LTP's activity.

Example (6). (i) This example illustrates the application of the rules of this section in the case of a taxpayer who conducts two passive activities through a passthrough entity. J, a calendar year taxpayer, is the 100-percent shareholder of Y, a calendar year S corporation. J conducts two passive activities through Y: A rental activity and a trade or business activity in which J does not materially participate. Y borrows $80,000 from J, and uses $60,000 of the loan proceeds in the rental activity and $20,000 of the loan proceeds in the passive trade or business activity. Y pays $8,000 of interest to J for the taxable year, and J incurs $8,000 of interest expense as J's distructive share of Y's interest expense.

(ii) Paragraph (c) of this section applies in determining J's passive activity gross income because (a) Y has self-charged interest deductions for the taxable year *i.e.* the deductions for interest charged to Y by J, (b) J owns a direct interest in Y during Y's taxable year and has gross income for J's taxable year from interest charged to Y, and (c) J's share of Y's self-charged interest deductions includes passive activity deductions. See (c)(1) of this section.

(iii) Under paragraph (c)(2)(i) of this section, the applicable percentage of J's interest income is recharacterized as passive activity gross income attributable to the rental activity. Paragraph (c)(3) of this section provides that the applicable year of Y's self-charged interest deductions that are treated as passive activity deductions from the rental activity ($6,000) by the greater of (a) J's share for the taxable year of Y's self-charged interest deductions ($8,000), or (b) J's income for the taxable year from interest charged to Y ($8,000). Thus, J's applicable percentage is 75 percent ($6,000/$8,000), and $6,000 (75 percent × $8,000) of J's income from interest charged to Y is treated as passive activity gross income from the rental activity J conducts through Y.

(iv) Under paragraph (c)(2)(i) of this section, the applicable percentage of J's interest income is recharacterized as passive activity gross income attributable to the passive trade or business activity. Paragraph (c)(3) of this section provides that the applicable percentage is obtained by dividing J's share for the taxable year of Y's self-charged interest deductions that are treated as passive activity deductions from the passive trade or business activity ($2,000) by the greater of (a) J's share for the taxable year of Y's self-charged interest deductions ($8,000), or (b) J's income for the taxable year from interest charged to Y ($8,000). Thus, J's applicable percentage is 25 percent ($2,000/$8,000), and $2,000 of J's income from interest charged to Y is treated as passive activity gross income from the passive trade or business activity J conducts through Y.

Par. 4. Section 1.469–11T is amended by revising the captions for paragraph (a)(2) and paragraph (a)(2)(i) and by adding a new paragraph (a)(2)(iii). The revised captions and added provision read as follows:

§ 1.469–11T Effective date and transition rules (temporary).

(a) * * *

(2) *Application of certain income recharacterization rules and self-charged rules*—(i) *Certain recharacterization rules inapplicable in 1987.* * * *

* * * * *

(iii) *Self-charged rules*—(A) *In general.* For taxable years beginning before June 4, 1991—

(*1*) A taxpayer is not required to apply the rules in § 1.469–7 in computing the taxpayer's passive activity loss and passive activity credit; and

(*2*) A taxpayer that owns an interest in a passthrough entity may use any reasonable method of offsetting items of interest income and interest expense from lending transactions between the passthrough entity and its owners to compute the taxpayer's passive activity loss and passive activity credit.

(B) *Reasonable methods.* For purposes of this paragraph (a)(2)(iii), reasonable methods of offsetting interest income and interest expense from lending transactions between a passthrough entity and its owners do not include methods that offset items from nonlending transactions between the passthrough entity and its owners.

* * * * *

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 91–8062 Filed 4–2–91; 2:41 pm]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 301

[PS–39–89]

RIN 1545–AN64

Limitation on passive activity losses and credits—Treatment of self-charged items of income and expense; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the treatment of self-charged items of income and expense for purposes of applying the limitations on passive activity losses and passive activity credits.

DATES: The public hearing will be held on Friday, September 6, 1991, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Friday, August 23, 1991.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, [PS–39–89], room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–343–0232 or 202–566–3935, (not a toll-free number.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 469 of the Internal Revenue Code of 1986. The proposed regulations appear elsewhere in this issue of the **Federal Register.**

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, August 23, 1991, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,
Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91–8063 Filed 4–2–91; 2:41 pm]

BILLING CODE 4830–01–M

26 CFR Part 301

[IA-26-90]

RIN 1545-AP61

Extension of Time for Making Elections

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations permitting the Commissioner to grant taxpayers an extension of time for making certain elections under the Internal Revenue Code. The text of these temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments must be received by May 15, 1991. The Service intends to hold a public hearing on these proposed regulations during the week of June 3 through June 7, 1991. Persons wishing to speak at this hearing must submit outlines of their comments by May 15, 1991. A notice of public hearing will be published in the **Federal Register** in the near future.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (IA-26-90), room 4429, 1111 Constitution Avenue NW., Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Barbara B. Walker, telephone 202-566-5985 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** add new § 301.9100-1T to the Procedure and Administration Regulations. The final regulations that will result from the regulations proposed in this notice would be based on the text of the temporary regulations and would provide rules relating to extensions of time to make elections or applications for relief when the time for making the election or application is not expressly prescribed by statute. For the text of the temporary regulations, see T.D. 8342, published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issuance of the proposed regulations.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed rules, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Written Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments (preferably eight copies) that are submitted to the Internal Revenue Service. All comments will be available to the public for inspection and copying in their entirety. A public hearing will be held during the week of June 3 through June 7, 1991. A notice of public hearing will be published in the **Federal Register** in the near future.

Drafting Information

The principal author of these proposed regulations is Barbara B. Walker, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91-8079 Filed 4-4-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment would revise statutory provisions pertaining to land use definitions, the review of mine permit applications, and standards for the Wyoming Game and Fish Commission in providing consultation on and approval of the reclamation of surface mined land for fish and wildlife habitat. The proposed amendment is intended to revise the State program to clarify ambiguities and improve operational efficiency.

This notice sets forth the times and locations that the Wyoming program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.d.t., May 6, 1991. If requested, a public hearing on the proposed amendment will be held on April 30, 1991. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t., on April 22, 1991.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Guy Padgett at the address listed below.

Copies of the Wyoming program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSMRE's Casper Field Office.

Mr. Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, room 2128, Casper, WY 82601-1918; Telephone: (307) 261-5776.

Department of Environmental Quality, Land Quality Division, Herschler Building—Third Floor West, 122 West

25th Street, Cheyenne, WY 82002; Telephone: (307) 777–7756.

FOR FURTHER INFORMATION CONTACT: Mr. Guy Padgett, Director, Casper Field Office on telephone number (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1990 **Federal Register** (45 FR 78637). Subsequent actions concerning the Wyoming program and program amendments can be found at 30 CFR 950.12, 950.15, and 950.16.

II. Proposed Amendment

By letter dated March 21, 1991, (Administrative Record No. WY–15–1) Wyoming submitted a proposed amendment to its program pursuant to SMCRA. Wyoming submitted the proposed amendment at its own initiative to improve its program.

The statutory provisions that Wyoming proposes to amend are contained within The Wyoming Environmental Quality Act, as follows: W.S. 35–11–406(h) (new language has been proposed for insertion that would stop the Administrator from raising as issues any items not previously identified as deficient at the close of the first one hundred and fifty-day review period, unless the applicant in subsequent revisions significantly modifies the application); W.S. 35–11–103 (proposes the addition of definitions for fish and wildlife habitat and grazing land); and W.S. 35–11–402 (proposal would establish standards to be used by the Wyoming Game and Fish Commission in providing consultation on and approval of the reclamation of surface mined land for fish and wildlife fish and wildlife habitat).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4 p.m., m.d.t. on April 22, 1991. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to comment at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested, as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **"ADDRESSES"**. A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 29, 1991.

Allen D. Klein,

Deputy Assistant Director, Western Support Center.

[FR Doc. 91–7999 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Reimbursement of Individual Health Providers

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements the provisions of the Defense Appropriations Act for fiscal year (FY) 1991, Public Law 101–511, section 8012, which limits increases in maximum allowable payments to physicians and other individual health care providers and authorizes reductions in such amounts for overpriced procedures.

DATES: Written comments must be received on or before May 6, 1991.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045–6900. For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238. The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Steve Lillie, Office of the Assistant Secretary of Defense (Health Affairs), telephone (703) 695–3350.

Questions regarding payment of specific claims under the CHAMPUS allowable charge method should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:

A. Congressional Action

The Fiscal Year 1991 Department of Defense Appropriations Act, Pub. L. 101–511, that was signed on November 5, 1990, included the following provision as section 8012:

None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1990 for similar services, except that: (a) For services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the

Social Security Act; and (b) for services the Secretary determines are overpriced based on an analysis similar to that used pursuant to title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent. The Secretary shall solicit public comment prior to promulgating regulations to implement this section.

As a consequence of this provision, DoD deferred the 1991 prevailing charge updates, normally scheduled for January 1. This was necessary in order to comply with the prohibition on increasing 1990 prevailing charges prior to the promulgation of regulations to implement the statutory constraints.

More broadly, this section provides an excellent opportunity to increase the fairness of the CHAMPUS allowable charge reimbursement method, by increasing or reducing prevailing charge limitations based on analyses similar to those conducted by and for the Health Care Financing Administration in preparing for replace the Medicare reasonable charge payment mechanism with a Resource-Based Relative Value Scale (RBRVS) fee schedule beginning January 1, 1992. We do not propose at this time to adopt the RBRVS fee schedule as the basis for reimbursement of professional providers in CHAMPUS; rather, we propose to make adjustments in prevailing charge levels in the CHAMPUS allowable charge system.

B. Background

Historically, CHAMPUS and Medicare have used similar approaches to determine allowable payment levels. CHAMPUS uses an "allowable charge" method, paying the lesser of the actual billed charge or the 80th percentile of billed charges for the same service in the same locality (State) in the previous year. Medicare pays on the basis of "reasonable charges," the least of the billed charge, the 75th percentile of charges in the same locality, or the physician's usual charge for the service. Substantial differences in payment levels between the programs have arisen because the Medicare Economic Index (MEI) has been in place as a limit on growth in Medicare program allowable charges since 1972. In February 1989, pursuant to Congressional direction, CHAMPUS took an initial step towards controlling increases in prevailing charges by implementing the MEI as a limit on growth. The MEI, promulgated annually by Congress, represents changes in physician office practice costs and general wage levels. In 1989, the MEI was 3 percent for primary care services and 1 percent for all other services. In 1990, the MEI was 4.2 percent for primary care, 0.0 percent for radiology, anesthesiology and certain other services, and 2.0 percent for other services.

In the past decade, Medicare has implemented a variety of measures to control the rise in professional service costs, such as additional limits on fee increases, programs to increase assignment rates, and limits on balance billing by providers. In response to continued rapid escalation in Medicare costs, Medicare is in the process of implementing a major change to its reimbursement approach, replacing its reasonable charge payment mechanism with a resource-based relative value scale (RBRVS) fee schedule beginning January 1, 1992. Congressional direction for this change was in the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239, section 6102(a).

CHAMPUS allowable charge levels for professional services currently average about 43 percent above Medicare's. CHAMPUS payments for professional services will be over $1.5 billion in fiscal year 1991, and are one of the fastest growing components of the spiralling CHAMPUS budget. There are several problems with the allowable charge approach used by CHAMPUS to reimburse professional services today. First, it is inflationary, in the sense that current allowable payment levels are driven by the prices set by physicians and other providers. The imposition of the MEI as a limit on growth would gradually ameliorate this over a number of years. However, this would give rise to another problem: The prevailing charge limit eventually would become a de facto fee schedule, and rather than being based on the relative value or cost of providing services, the reimbursement would be based on the historical relative prices of services. Finally, because prevailing charge limits are established on a statewide basis, CHAMPUS pays more than appropriate in low-cost areas and perhaps less than desirable in high-cost areas.

C. Medicare's Physician Payment Reform

The 1989 Omnibus Budget Reconciliation Act changes to the Medicare payment approach include three elements: Adoption of a Medicare fee schedule using a resource-based relative value scale (RBRVS); imposition of Medicare volume performance standard (MVPS); and, new limits on billed charges that may be levied on Medicare patients.

The fee schedule arose from work on resource-based relative value scales conducted by Dr. William Hsiao of Harvard and the Physician Payment Review Commission. The fee schedule based on this research is intended to rationalize payments for professional services by basing them on the resources required rather than on the historical prices charged by providers. In a nutshell, this research has identified some services (chiefly cognitive services) as undervalued in relation to the resources required to perform them, and other services (chiefly surgical procedures) as overvalued.

Under the Medicare fee schedule, to be implemented beginning January 1, 1992, each service will be reimbursed based on its value, which is defined as the sum of relative value units representing physician work, practice expenses net of malpractice expenses (overhead), and the cost of professional liability insurance (malpractice). Nationally uniform relative values will be adjusted for each locality according to published geographic practice cost indices. A conversion factor will be used to convert total relative value units into dollar payment levels. The conversion factor will be budget neutral, that is, it will be calculated so that had the fee schedule applied during 1991 the same level of aggregate payments would result as under the reasonable charge system.

The Medicare statute also establishes volume performance standard rates of increase for Medicare performance standard rates of increase for Medicare physician expenditures. Acceptable rates of increase are established annually; if expenditures exceed the established standard, then the amount of the annual update in the fee schedule conversion factor for a subsequent year may be reduced. Additionally, beneficiary financial protection from balance billing (charges in excess of allowable amounts which providers may seek to collect from the patient) is enhanced.

As a first step towards implementing the Medicare fee schedules, Congress dictated reductions in payments for certain procedures that has been identified as overvalued by at least 10 percent based on a comparison of payment amounts under a resource-based relative value scale and the existing national average prevailing charge for 1989. Reductions of up to 15 percent were implemented on April 1, 1990, for 245 such procedures, and additional reductions for these and other overvalued procedures are being implemented in 1991.

D. Provisions of Proposed Rule

The Appropriations Act authority to reduce CHAMPUS prevailing charges based on an analysis similar to

Medicare's provides the opportunity to move in the same direction as Medicare—away from inflationary, maldistributed payments, and toward a more rational, fair, and cost-effective payment system.

One important opportunity provided by the approach being taken by Medicare is for CMAMPUS to develop prevailing charge levels on a local area basis rather than on a state-by-state basis.

Under the current CHAMPUS approach, each CHAMPUS Fiscal Intermediary develops, for each of the states it serves, a profile of base period charges for each service in order to determine the 80th percentile charge. Because there are more than 7,000 different procedures for which this must be done, profile development is a complex process, and often there are insufficient data to establish prevailing charges, resulting in imputed values for many services. We propose instead to calculate maximum allowable charge levels on a national basis, and use the Medicare geographic practice cost indices (GPCIs) to adjust the national levels to local economic conditions. Implementation of this approach will not be possible until January 1, 1992, when all the necessary information will be available from Medicare.

Also to take effect January 1, 1992 would be the new method proposed for calculating maximum allowable charges. We propose to reduce prevailing charges by no more than 15 percent for services which are determined to be overpriced in accordance with the analysis described below. We propose to increase prevailing charge levels by the Medicare Economic Index for primary care services (other than any determined overpriced) as we have defined primary care services in the past. For services that are neither overpriced based on the analysis explained below nor primary care procedures, the prior year prevailing charge levels would be continued.

Our analysis for identifying "overpriced procedures" is similar to that conducted by Medicare, as instructed by Congress. For Medicare, the Congress designated a number of procedures in the Omnibus Budget Reconciliation Act (OBRA) of 1989 (Pub. L. 101–239) as "overvalued procedures;" an additional group of procedures were identified in OBRA 1990 (which we refer to as "other overvalued procedures"). Overvalued procedures were identified as those for which the Medicare national average prevailing charge was at least 10 percent above the projected RBRVS payment amount.

We compared CHAMPUS prevailings to Medicare's preliminary relative value units (RVUs), which were published in the **Federal Register** on September 4, 1990 (55 FR 36178). This was done by calculating what CHAMPUS prevailing charges would have been in 1988 on a national basis, and comparing those values to the RVUs published by Medicare.

Our preliminary analysis indicates that the overall average ratio of CHAMPUS prevailings to Medicare RVUs was 1.53, when weighted for the frequency of CHAMPUS procedures. In order to determine the relationship of CHAMPUS prevailing charges to Medicare RVUs for various groupings of procedures, we conducted a series of comparisons. As Table 1 shows, the procedures identified in OBRA 1989 as overvalued Medicare procedures are very overpriced for CHAMPUS as well, with an average ratio (CHAMPUS prevailing to Medicare RVU) of 2.31. Procedures identified by OBRA 1990 as "other overvalued," with which we grouped radiology procedures, because they also were singled out in OBRA 1990, have an average ratio of 1.93. For procedures which Medicare has frozen allowable charges for 1991 in accordance with OBRA 1990, the average ratio is 1.55. Procedures defined by CHAMPUS as primary care procedures have an average ratio of 1.37. Finally, pathology procedures, which are paid under a separate fee schedule under Medicare, were the most overpriced in CHAMPUS, with an average ratio of 2.76. In other words, the average pathology procedure would have had a CHAMPUS prevailing level in 1988 176 percent higher than the proposed Medicare RVU.

This analysis permits us to identify procedures which are overpriced compared to the average relationship of CHAMPUS prevailing charges to Medicare RVUs. Specifically, in this analysis any procedure with a ratio of CHAMPUS prevailing to Medicare RVU of more than 1.53 is overpriced. Accordingly, our proposal is that any procedure for which the ratio of CHAMPUS prevailing charge to Medicare RVU is greater than 1.5 should be reduced in accordance with Congressional authority. Because Medicare has not completed development of RVUs for all procedures, we propose to implement this process in 1992, when all RVU values will be available.

We feel confident that this analysis has produced meaningful results, and provides the basis for appropriate modifications to CHAMPUS prevailing charges. In concert with the shift to national prevailing charges and local economic adjustments described above, these modifications will produce a better balanced and fairer reimbursement system for professional services.

Under the proposed rule, in order to preserve the effects of the Congressionally-directed application of the Medicare Economic Index in 1989 and 1990, as well as the adjustments to prevailing charges being proposed for 1991, we will calculate for 1992 an "appropriate charge" level for each procedure. The appropriate charge will be based on national billed charge data from the period prior to implementation of the Medicare Economic Index for CHAMPUS, updated to the present by application of the maximum increases permitted by the MEI and the 1991 adjustments to prevailing charges. The appropriate charge will be used in CHAMPUS allowable charge determinations just as the MEI-limited prevailing charge is used as present. This is the system we propose to establish effective January 1, 1992.

However, for several reasons, it is inappropriate to implement in 1991 the full reductions in prevailing charges suggested by the analysis we carried out. First, the Medicare data used in the analysis are preliminary, which makes it appropriate for us to exercise caution. Second, the full range of values for Medicare RVUs has not yet been established; a Notice of Proposed Rulemaking for the Medicare fee schedule is planned for April 1991. Although the Medicare data we need in our analysis are preliminary, the analysis focused on comparisons in the aggregate, and demonstrated substantial overpricing for some groups of procedures.

Based on these reasons, we propose to reduce prevailing charges in 1991 by 15 percent for those procedures which have been identified for Medicare as "overvalued" (the OBRA 1989 group) and "other overvalued" (the OBRA 1990 group, including radiology), as well as pathology procedures. In our analysis, these categories had average ratios of CHAMPUS prevailings to Medicare RVUs of 2.37, 1.93, and 2.76 respectively, which suggests that all the procedures in these categories share the attribute of being overpriced.

As shown in Table 1, the average ratio of CHAMPUS prevailing charges to Medicare RVUs for primary care services was below the overall average ratio. Based on this finding, we propose to increase prevailing charges for

primary care by the Medicare Economic Index (2 percent).

We propose to freeze prevailing charge levels during 1991 at the 1990 level for all other procedures. This action is supported by the Congress' direction to pay at the 1990 level absent a determination that the procedure is overpriced or that an increase is warranted. While the group of procedures to be frozen no doubt includes some which are overpriced, we cannot identify them with confidence until further data are available.

Any change in maximum payment levels for health care services may raise concerns about continued beneficiary access to affordable health care. We are attentive to the issue of maintaining access to care; in this instance, several factors make us confident that there will be no substantial adverse effect on access. As has been described above, CHAMPUS prevailing charge limits are considerably higher than Medicare rates, suggesting modest reductions in prevailing charge levels can be undertaken without affecting access to care. Our prior actions to implement cost constraints, such as the Medicare Economic Index, were met with increased rates of provider participation, rather than the reduced participation which would be expected if providers were not being reimbursed adequately. Also, with full implementation of our proposal in 1992, the adjustment of payment levels to reflect local economic conditions should further increase the acceptability to local providers of our payment levels.

Programs to increase provider participation in CHAMPUS also protect beneficiary access by assuring that a willing pool of providers exists. Expanded development of local provider networks under the Coordinated Care Program will add to the impact of the Health Care Finder/Participating Provider programs being implemented across the country at military hospitals.

E. Rulemaking Procedures

This proposed rule could be considered a major rule under Executive Order 12291 in that it is expected to reduce CHAMPUS payments to the affected categories of providers by more than $100 million in FY 1992. The information set forth below, as well as much of the material in this preamble, constitute our initial regulatory impact analysis for purposes of Executive Order 12291 and initial regulatory flexibility analysis for purposes of the Regulatory Flexibility Act.

The economic impact of the proposed rule is to reduce by modest amounts the CHAMPUS allowable payment levels for the particular health care procedures affected, which will serve to moderate the exceptionally rapid rate of growth in CHAMPUS professional payments in recent years. Percentage reductions in CHAMPUS allowable payment amounts for professional providers are limited to avoid drastic impacts on providers. In addition, the fact that CHAMPUS payment levels are substantially higher than Medicare levels indicates that the proposed reductions will not have unreasonable impact on providers. Moreover, the changes contained in this proposed rule are carefully tailored to accomplish clear Congressional policy of applying to CHAMPUS payment methods and analyses that have been successfully used under Medicare.

We do not at this point have specific data that would allow us to quantify economic impacts on particular groups of physicians and other health care providers. We do not, however, believe that this rule would have a significant economic impact on a substantial number of providers. For a provider to experience a significant impact, that provider would have to have a very high volume of CHAMPUS business, all or most of which is for fees considered clearly excessive under this proposed rule. We do not believe this is the case with respect to very many providers. For those few providers for whom this is the case, the impact is cushioned by the 15 percent limit on any reductions and by the fact that CHAMPUS appropriate charge levels will still be maintained at 1.5 times the Medicare relative value unit. Finally in this connection we note that the only impact on physicians and other "small entities" is in connection with payment rates. This proposed rule does not impose new paperwork requirements or other regulatory burdens of the type the Executive Order and the Regulatory Flexibility Act were intended to minimize.

In summary, the proposed modifications to payment levels will increase the equity of the payment system, and will reduce unnecessary Government expenditures without significant adverse impact on any individual.

This is a proposed rule. We invite public comments on all aspects of this proposal. We also invite comment on the initial regulatory impact analysis and regulatory flexibility analysis set forth above. We expect to publish a final rule approximately 30 days after the close of the comment period.

TABLE 1.—RATIO OF CHAMPUS PREVAILING CHARGE TO PROPOSED MEDICARE RVUS, BY TYPE OF PROCEDURE

Type of procedure	Average ratio [1]
Pathology	2.76
Medicare Overvalued	2.31
Other Medicare Overvalued/Radiology	1.93
Medicare Frozen	1.55
Average CHAMPUS	1.53
CHAMPUS Primary Care	1.37
Medicare	1.00

[1] CHAMPUS prevailings calculated in a national basis using data on all professional claims processed from October 1, 1987 through January 31, 1988. Calculated for Medicare RVUs published in the September 4, 1990 FEDERAL REGISTER.

List of Subjects in 32 CFR Part 199

Administrative practice and procedure, Claims, Health insurance.

For the reasons stated in the preamble, 32 CFR part 199 is amended as follows:

PART 199—AMENDED

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, and 5 U.S.C. 301.

2. Section 199.14 is amended by revising paragraph (g) as follows:

§ 199.14 Provider reimbursement methods.

* * * * *

(g) * * *

(1) *Allowable charge method*—(i) *In general.* The allowable charge method is the preferred and primary method for reimbursement of individual health care professionals and other non-institutional health care providers. The allowable charge for authorized care shall be the lowest of the billed charge, the prevailing charge level or the appropriate charge level.

(ii) *Prevailing charge level.* (A) Beginning in calendar year 1992, the prevailing charge level shall be calculated on a national basis, then adjusted for localities in accordance with paragraph (g)(1)(iv) of this section.

(B) The national prevailing charge level referred to in paragraph (g)(1)(ii)(A) of this section is the level that does not exceed the amount equivalent to the 80th percentile of billed charges made for similar services during the base period. The 80th percentile of charges shall be determined on the basis of statistical data and methodology acceptable to the Director, OCHAMPUS (or a designee).

(C) For purposes of paragraph (g)(1)(ii)(B) of this section, the base

period shall be a period of 12 calendar months and shall be adjusted once a year, unless the Director, OCHAMPUS, determines that a different period for adjustment is appropriate and publishes a notice to that effect in the **Federal Register.**

(iii) *Appropriate charge level.* Beginning in calendar year 1992, the appropriate charge level shall be calculated on a national basis, then adjusted for localities in accordance with paragraph (g)(1)(iv) of this section. The appropriate charge level for each procedure is the product of the following two-step process:

(A) *Step 1: Procedures classified.* All procedures are classified into one of three categories, as follows:

(*1*) *Overpriced procedures.* These are the procedures for which the prior year's national appropriate charge level or national prevailing charge level, whichever is less, exceeds the Medicare converted relative value unit (CRVU) by greater than 150 percent. For purposes of the preceding sentence the CRVU is the Medicare Resource-Based Relative Value Scale relative value unit, converted to a dollar value by using the applicable Medicare conversion factor.

(*2*) *Other procedures.* These are procedures not included in either the overpriced procedures group or the primary care procedures group.

(*3*) *Primary care procedures.* These are primary care procedures, excluding overpriced procedures. The CHAMPUS definition of primary care includes maternity care and delivery services and well baby care services.

(B) *Step 2: calculating appropriate charge levels.* For each year, appropriate charge levels will be calculated by adjusting the prior year's appropriate charge levels as follows:

(*1*) For overpriced procedures, the prior year's appropriate charge level for each procedure shall be reduced by the lesser of: The percentage by which it exceeds 150 percent of the Medicare converted relative value unit or fifteen percent.

(*2*) For other procedures, the prior year's appropriate charge level for each procedure shall be continued.

(*3*) For primary care procedures, the prior year's appropriate charge level shall be adjusted by the Medicare Economic Index (MEI), as the MEI is applied to Medicare prevailing charge levels.

(iv) *Calculating prevailing charge levels and appropriate charge levels for localities.* The national prevailing charge levels determined pursuant to paragraph (g)(1)(ii) of this section and the national appropriate charge levels calculated pursuant to paragraph (g)(1)(iii) of this section will be adjusted for localities using the same (or similar) geographical areas and the same geographic adjustment factors as are used for determining allowable charges under Medicare.

(v) *Special rules for 1991.* (A) Prevailing charge levels for care provided on or after January 1, 1991, and before the 1992 prevailing charge levels take effect shall be the same as those in effect on December 31, 1990, except that prevailing charge levels for care provided on or after July 1, 1991 shall be those established pursuant to paragraph (g)(1)(v) of this section.

(B) Appropriate charge levels will be established for each locality for which a prevailing charge level was in effect immediately prior to July 1, 1991. For each procedure, the appropriate charge level shall be the prevailing charge level in effect immediately prior to July 1, 1991, adjusted as provided in paragraph (g)(1)(v)(B) (*1*) through (*3*) of this section.

(*1*) For each overpriced procedure, the level shall be reduced by fifteen percent. For this purpose, overpriced procedures are the procedures determined by the Physician Payment Review Commission to be overvalued pursuant to the process established under the Medicare program, other procedures considered overvalued in the Medicare program (for which Congress directed reductions in Medicare allowable levels for 1991), radiology procedures and pathology procedures.

(*2*) For each other procedure, the level shall remain unchanged. For this purpose, other procedures are procedures which are not overpriced procedures or primary care procedures.

(*3*) For each primary care procedure, the level shall be adjusted by the MEI, as the MEI is applied to Medicare prevailing charge levels. For this purpose, primary care procedures include maternity care and delivery services and well baby care services.

(vi) *Special transition rule for 1992.* For purposes of calculating the national appropriate charge levels for 1992, the prior year's appropriate charge level for each service will be considered to be the level that does not exceed the amount equivalent to the 80th percentile of billed charges made for similar services during the base period of July 1, 1986 to June 30, 1987 (determined as under paragraph (g)(1)(ii)(B) of this section), adjusted to calendar year 1991 based on the adjustment made for maximum CHAMPUS prevailing charge levels through 1990 and application of paragraph (g)(1)(v) of this section for 1991.

(vii) *Adjustments and procedural rules.* (A) The Director, OCHAMPUS may make adjustments to the appropriate charge levels calculated pursuant to paragraphs (g)(1)(iii) and (g)(1)(v) of this section to correct any anomalies resulting from data or statistical factors, significant differences between Medicare-relevant information and CHAMPUS-relevant considerations or other special factors that fairness requires be specially recognized. However, no such adjustment may result in reducing an appropriate charge level.

(B) The Director, OCHAMPUS will issue procedural instructions for administration of the allowable charge method.

* * * * *

Dated: April 2, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-8023 Filed 4-4-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 91-015]

RIN 2115-AD62

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the Puget Sound Vessel Traffic Service (VTS) regulations to incorporate a multi-channel communications system. Communicating on the present VTS frequency, 156.700 MHz (channel 14) has become difficult due to increased vessel traffic. By using a second VTS designated frequency, 156.250 MHz (channel 5A), communications on channel 14 would be reduced thereby improving navigational safety in the VTS Area.

DATES: Comments must be received on or before June 4, 1991.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3406), (CGD 91-015), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Bruce Riley, Project Manager, Navigation Safety Systems Special Projects Staff, Tel. (202) 267–0412.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 91–015) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "**ADDRESSES.**" If it determines that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Bruce Riley, Project Manager, and Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Background and Purpose

Marine communications in the VTS Puget Sound Area have become increasingly difficult due to the large volume of traffic. The VTS has noticed a significant increase in the number of incidents of covered communications (a transmission by one unit made unreadable because of a second unit's transmission) occurring on channel 14. This is an indication that this radio channel is being over used.

VTS Puget Sound proposes to use channel 5A, designated by the FCC for VTS use, as the second channel for their VTS operations. Vessels would be required to communicate with the VTC on channel 5A or channel 14, as directed by the VTC. Although some foreign vessels entering the VTS Puget Sound Area may not have channel 5A available on their marine radios, use of handheld radios by the marine pilots should eliminate any communications problems.

Discussion of Proposed Amendments

Section 161.114 would be revised to include channel 5A as a designated primary VTS frequency. The secondary frequency would not change.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979).

Since the vast majority of vessel owners or operators affected by this rulemaking already have channel 5A programmed into their VHF/FM radios, or would be able to transmit required reports via a pilot's hand-held radio, the Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The number and characteristics of present users of VTSs would not change because of this proposal. The purchase or modification of radio equipment, if necessary, would only affect a very small number of vessel owners or operators.

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have significant economic impact on a substantial number of small entities.

Collection of Information

The Coast Guard considers operational communications within the VTS Area as transitory in nature and, therefore, has concluded that this rule contains no collection of information requirements, (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. Since this rulemaking is primarily aimed at improving communications and navigation, no effect on the human environment is expected. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES.**"

List of Subjects in 33 CFR Part 161

Harbors, Navigation (water), Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 161 as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Section 161.114 would be revised to read as follows:

§ 161.114 Use of designated frequencies.

(a) The VTS Area uses a two-frequency VHF-FM communication system. The two primary working frequencies authorized by FCC rule 47 CFR 80.383 are 156.25 MHz (channel 5A) and 156.70 MHz (channel 14).

(b) The secondary frequency throughout the VTS Area is 156.650 MHz (channel 13).

(c) No one shall transmit on these VTS frequencies for any purpose other than to pass information and reports to and from the VTC or necessary navigational safety information between vessels.

(d) All transmissions to the VTC shall be initiated on low power. High power may be used only if low power communications are unsuccessful.

(e) Vessels will communicate with the VTC on channel 5A or channel 14, as directed by the VTC.

Dated: April 1, 1991.

J.W. Lockwood,

Captain, Coast Guard, Chief, Office of Navigational Safety and Waterway Services.

[FR Doc. 91–8035 Filed 4–4–91; 8:45 am]

BILLING CODE 4910–14–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1280

RIN 3095-AA50

Demonstrations at the National Archives Building

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule sets forth the conditions under which individuals and groups may use property surrounding the National Archives Building for demonstrations or similar activity. The rule is being promulgated to ensure the safety of persons who use the National Archives Building, including researchers, exhibit visitors, and Government employees; and to prevent disruption both to the conduct of official business and to the timely provision of NARA services to the general public.

DATES: Comments must be received by May 6, 1991.

ADDRESSES: Comments should be sent to Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Mary Ann Palmos or Nancy Allard at 202-501-5110.

SUPPLEMENTARY INFORMATION: The National Archives Building and the property immediately surrounding the building are under the control of the Archivist of the United States. On the Pennsylvania Avenue, NW., side of the National Archives Building, the Archivist's control extends over the Pennsylvania Avenue, NW., entrance between 7th and 9th Streets, including the area within the retaining walls on either side of the entrance inclusive of the statues and the steps leading up to the entrance of the building. On the Constitution Avenue, NW., side of the National Archives Building, the Archivist's control extends over all property from the Constitution Avenue entrance to the street, including the sidewalk and other grounds; the steps leading up to the Constitution Avenue, NW., entrance; the Constitution Avenue entrance; and the portico area between the steps and the Constitution Avenue entrance. On 7th Street and 9th Street, NW., between Pennsylvania Avenue and Constitution Avenue, control extends over all property between the National Archives Building and the street, including the sidewalks and other grounds.

This area allows only limited space for individuals and groups to engage in demonstrations or other similar activities without causing a safety hazard to the tourists, researchers, and other visitors to the National Archives Building. Any limitations NARA imposes on demonstrations or similar activities are to ensure public safety and good order.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1280

Archives and records, Federal buildings and facilities.

For the reasons set forth in the preamble, NARA proposes to amend part 1280 of chapter XII of title 36 of the Code of Federal Regulations as follows:

PART 1280—PUBLIC USE OF FACILITIES

1. The authority citation for part 1280 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

2. Section 1280.30 is added to subpart B to read as follows:

§ 1280.30 Demonstrations.

(a) *Definitions.* (1) The term *demonstration* includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct which involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term does not include casual use of property under the control of the Archivist of the United States by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(2) The term *property under the control of the Archivist of the United States* has the meaning defined in § 1280.12(a).

(b) *Permit requirements.* (1) Demonstrations may be held by groups of two or more persons only pursuant to a permit issued by NARA in accordance with the provisions of this section. A maximum of 25 persons at any time may be part of an approved group demonstration. Demonstrations by single individuals may be held without a permit, provided the individual complies with the other provisions of this section; however, if it appears to NARA that the requirement for groups to obtain a permit is being circumvented, NARA will require the individuals involved to apply for a permit.

(2) Permit applications may be obtained from the Security Staff (NAFS), National Archives Building—room G-13D, 7th and Pennsylvania Avenue, NW., Washington, DC 20408. Completed applications must be received by NARA at the same address at least 5 workdays in advance of the proposed demonstration. The applicant will be notified of the approval or denial of a permit no less than one workday in advance of the proposed demonstration.

(3) A permit may be denied in writing by the Assistant Archivist for Management and Administration upon the following grounds:

(i) One or more fully executed prior applications for the same time have been received and permits have been or will be approved, and the size of the proposed demonstration cannot be accommodated with the other scheduled demonstrations;

(ii) It reasonably appears that the proposed demonstration will present a clear and present danger to the public safety, good order, or health; or

(iii) The proposed demonstration is of such a size or duration that it cannot be accommodated.

(c) *Limitations.* (1) Demonstrations will be permitted only on the sidewalk area of Constitution Avenue, NW., between 7th Street and 9th Street and only in the area specified by the Assistant Archivist for Management and Administration. Demonstrations may not impede pedestrian traffic on the sidewalk. Demonstrations will not be permitted on the steps to the Constitution Avenue, NW., entrance nor on the portico between the steps and the entrance. Demonstrations are limited to the hours of 7 a.m. to 7 p.m., eastern time.

(2) Demonstrations by groups may not exceed seven days; however, a group may request one extension of its permit of up to seven days.

(3) Demonstrations will not be allowed during special events conducted or sponsored by NARA, such as Constitution Day or Fourth of July ceremonies, where large crowds are anticipated.

(4) Each individual or group is limited to one hand-carried sign that is no larger than 36 inches in height and 36 inches in width and one-quarter inch in thickness with a maximum elevation of six feet from the ground at the highest point. The sign may not be placed in a stationary support structure; it must be carried or otherwise attended at all times during the demonstration. No other structures,

including lecterns or speaker's platforms, are permitted.

(5) Sound amplification equipment may not be used other than hand-portable equipment specifically authorized in the permit for purposes of crowd control.

(d) *Revocation of permits.* (1) NARA may revoke a permit issued for a demonstration if the permit-holder violates a condition of the permit or if, in NARA's judgement, the continuation of a demonstration presents a clear and present danger to the public safety, good order, or health, or for any violation of law.

(2) The reasons for the revocation will be furnished orally at the time the permit is revoked and in writing within one workday after the revocation.

Dated: March 22, 1991.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 91-7969 Filed 4-4-91; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 435

[FRL-3918-4]

Oil and Gas Extraction Point Source Category, Offshore Subcategory; Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshops and extension of comment period for proposed rule.

SUMMARY: EPA is scheduling two public workshops on proposed new source performance standards (NSPS), and effluent limitations guidelines based on best available technology economically achievable (BAT), and best conventional pollutant control technology (BCT) for the offshore subcategory of the oil and gas extraction point source category that were published on November 26, 1990 (55 FR 49094) and March 13, 1991 (56 FR 10664). EPA is also extending the comment period on the proposed rule.

DATES: EPA will conduct public workshops for the proposed rule on April 9, 1991 at the Radisson Suites Hotel, 315 Julia Street, New Orleans, Louisiana, and on April 11, 1991 at the Sheraton Santa Barbara Inn, 1111 East Cabrillo Boulevard, Santa Barbara, California. There will be no pre-registration for the workshops. On-site registration will begin at 8 a.m. The workshops will start at 9 a.m. local time.

The comment period for the proposed rule is extended by 30 days, ending on May 13, 1991. In addition, the comment period for information regarding the following issues only is extended by an additional 30 days, ending on June 11, 1991: (1) The performance of membrane filtration technology treatment of oily waters at locations in the oil and gas industry; (2) levels of radioactivity in produced water, produced sand, or well treatment, completion and workover fluids and their effects on ambient levels of radioactivity in the surrounding environment; and (3) the impact of the levels of radioactivity on the viability and appropriateness of the proposed treatment options.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald P. Jordan, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or call (202) 382-7115.

SUPPLEMENTARY INFORMATION: On November 26, 1990, and March 13, 1991, EPA published proposed new source performance standards (NSPS), and proposed effluent limitations guidelines based on best available technology economically achievable (BAT), and best conventional pollutant control technology (BCT) in the **Federal Register** for review and comment (55 FR 49094 and 56 FR 10664, respectively). The comment period was to end April 12, 1991.

Two public workshops are to be held during this comment period. The purpose of the workshops is to provide opportunities for the regulated industry and other interested parties to comment on issues pertaining to the proposed regulations.

The Agency has received requests to extend the comment period in order to allow more time to review the administrative record and completely address the issues on which EPA solicited public comment. In addition, EPA believes that it is appropriate to provide sufficient time to allow the regulated industry and interested parties to evaluate information and/or data presented at the workshops before expiration of the comment period. Therefore, EPA has determined that extension of the comment period would be beneficial to the public and the rulemaking process.

The comment period for the proposed regulations is extended by 30 days, ending on May 13, 1991. In addition, in view of EPA's ongoing membrane filtration sampling program and the complexity of the issues surrounding the radioactivity of oil field wastes, the comment period for information regarding the following issues only is extended by an additional 30 days, ending on June 11, 1991: (1) The performance of membrane filtration technology treatment of oily waters at locations in the oil and gas industry; (2) levels of radioactivity in produced water, produced sand, or well treatment, completion and workover fluids and their effects on ambient levels of radioactivity in the surrounding environment; and (3) the impact of the levels of radioactivity on the viability and appropriateness of the proposed treatment options.

Under a Settlement Agreement with the Natural Resources Defense Council (*NRDC* v. *Reilly*, D.D.C. No. 79-3442 (JHP), modified in April 1990), EPA is to promulgate final guidelines and standards for certain waste streams in this industry subcategory by June 19, 1992. (See 56 FR 10668 for a discussion of the Settlement Agreement.) The Agency is using its best efforts to comply with the promulgation dates specified in the Settlement Agreement and still expects to meet them despite this extension of the comment period.

Dated: March 29, 1991.

Robert H. Wayland,

Deputy Administrator for Water.

[FR Doc. 91-8113 Filed 4-4-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 91-65; FCC 91-72]

Interstate 900 Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted this notice of proposed rulemaking (NPRM) concerning interstate 900 services.

The notice of proposed rulemaking was issued in response to citizen complaints about abuses in the interstate 900 services.

The intended effect of the action is to provide consumers with the information they need in order to make informed choices about interstate 900 services and to provide them with more effective redress in the event abuses do occur.

DATES: Comments must be filed on or before April 24, 1991 and replies must be filed on or before May 24, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas G. David, Enforcement Division, Common Carrier Bureau (202) 632-4887.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 91-65 (FCC 91-72), adopted March 14, 1991, and released March 25, 1991.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch, room 239, 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Downtown Copy Center (202) 452-1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Notice of Proposed Rulemaking

1. On March 14, 1991, the Commission adopted a Notice of Proposed Rulemaking in CC Docket No. 91-65 (released March 25, 1991; FCC 91-72) in order to propose rules concerning interstate 900 services and to seek comment on a variety of other issues related to interstate 900 services.

A. Regulation of Basic Transmission Services

2. The Communications Act mandates that all practices for and in connection with interstate and foreign communications services shall be just and reasonable. 47 U.S.C. 201. A fundamental component of all interstate 900 service is the basic transmission and related service provided by the interexchange carrier. Pursuant to the Act's mandate that all practices in connection with communication services be reasonable, we tentatively conclude that an interexchange carrier's offering of 900 transmission service must include the terms and conditions set forth below. We tentatively find it to be an unreasonable practice in violation of section 201 for interexchange carriers to offer 900 transmission service by tariff or contract without requiring that callers be given information regarding the charges and nature of the calls associated with the carriers' 900 transmission service offerings and the opportunity to act based on that information; and providing the identity of the information provider.

B. Introductory Disclosure Message or Preamble

3. First, the NPRM addresses the issue of providing the consumer with both the information and opportunity to make an informed decision about whether to make a 900 service call. Proposed rule § 64.711 would require common carriers to include as a term and condition of taking 900 transmission service that the information provider's programs begin with an introductory disclosure message which effectively notifies the caller of the cost of the call and provides an accurate description of what the caller will receive. The rule would also require common carriers to prohibit any billing of charges to a caller until after the preamble has ended and the caller has had the opportunity to hang-up without incurring any charges. We would expect the preamble to contain clear and concise language and be of reasonable quality and duration. We seek comment on the best way to effectuate this expectation and how to enforce this requirement.

4. Also, we seek comment on whether repeat callers should be allowed to bypass the preamble and whether any restrictions should be placed on such bypass. For example, when the charge for the call has increased since the caller's last use, should bypass not be allowed. We also invite comment on whether preambles should be required of all service offerings or whether some exceptions should be made, for example, in the case of polling services, when information is provided in a non-verbal format, or when the charge to the caller is nominal.

5. In light of the special concerns regarding 900 offerings aimed at or likely to be of interest to children under the age of eighteen, we propose that the preamble for such offerings also include a statement that children must obtain the permission of a parent before placing the call and that if they do not have their parents' permission they must hang up.

6. We are aware that a preamble requirement could result in an increase in the cost to the information provider of providing service because of such factors as preamble time not billed for, or a potentially higher rate of discounts. On the other hand, the preamble would also probably result in fewer uncollectible bills for calls and a reduction in customer relations problems. Both of these factors could reduce an information provider's costs. We seek comment on the costs and benefit associated with the use of a preamble, whether there should be exceptions to this requirement and any technical problems that might result from such a requirement.

7. While we have not proposed to mandate specific language, we seek comment on whether that is necessary and whether a statement such as the following would provide sufficient information: "Thank you for calling the Sports Line for sports scores. A 50 cent per minute charge will appear on your local phone bill beginning after the tone."

C. Identity of Information Provider

8. Proposed § 64.712 would require each interexchange carrier offering basic 900 transmission service to provide, upon verbal or written request, the name, address and customer service telephone number of the information provider (and any other entity to whom the caller might be responsible for paying the 900 service charge). This proposed rule would require that the interexchange carrier ascertain who the actual provider of the 900 services program is and provide that information to a customer upon request. We seek comments on the feasibility of this proposal in terms of costs and burdens and whether some less burdensome requirement would be more appropriate.

D. Other Practices

9. The Commission requests comments on the extent to which poor quality occurs in 900 service programs and whether we should require specific terms and conditions directed at the alleged poor quality of some 900 service programs. The complaints of quality problems include arbitrary disconnection and inaudible programs and result in increased charges to the callers who either stay on the line longer or make repeated calls in an attempt to obtain the information.

10. We have also received complaints which appear to involve other unreasonable practices that prevent informed choice. For example, there have been complaints regarding automated collect calls. The calls are often generated by an automatic dialer to a consumer who allegedly can be charged, at 900 service rates, for a call he or she did not originate. We also seek comment about the extent to which the tones necessary to complete a call to a 900 service program are generated, allegedly in television programming directed at children. We seek comment on how widespread these practices are, how they are accomplished technically, and whether it would be in the public interest to restrict or prohibit such practices in interstate communications.

11. Another area of complaints dealing with automatic dialers concerns the phenomenon of "line seizing." Allegedly, calls from automatic dialers sometimes remain on the line long after the consumer has attempted to

disconnect the call. Manufacturers of autodialing equipment have denied line seizing is a matter of concern, claiming that newer equipment disconnects immediately upon receiving a disconnect signal from the called party and that, with older equipment, seizing ends within 10 to no more than 25 seconds. We ask parties to comment on whether, and the extent to which, line seizing is a problem both with regard to 900 services and generally. We seek comment on the costs and benefits of the Commission mandating disconnect and what the period of time should be. We invite parties to call attention to specific cases of line seizing so we might determine the facts involved.

E. Regulation of Blocking

12. The NPRM proposes and seeks comment on a requirement that LECs, as part of their interstate access service, offer free blocking of interstate 900 services, where technically feasible, to all subscribers who request it. Alternatively, we request comment on whether the requirement that the blocking be free be limited to three categories of telephone subscribers; to all customers when blocking is first made available, to all new telephone subscribers and to all subscribers who dispute or question a 900 service charge for the first time. We invite comment also on whether this free blocking requirement should be restricted to residential customers or extend to business customers. We seek comment on the technical problems and costs which this proposal would impose on affected parties. We also seek comment on how the costs of providing blocking service should be recovered.

F. Disconnection Restrictions

13. With regard to the payment of interstate 900 service charges, we tentatively conclude that we should impose a uniform national policy prohibiting cut-offs of basic exchange and interexchange service for failure to pay interstate 900 service charges. Nine hundred service charges often include charges for service other than basic communications service. We believe that access to basic telecommunications services should not be jeopardized by non-payment of charges that are unrelated to transmission services. Proposed § 64.714 would require that IXCs or LECs not disconnect a subscriber's basic telephone service for failure to pay interstate 900 services charges. We seek comment on this requirement.

G. Scope

14. The requirements proposed here are intended to apply to interstate 900 Services. We seek comment on whether they should also apply to interstate 700, 976, 540 and other similar services, including 800 services in those instances where the call is not free to the caller. We request comment on whether the proposed rules should apply if the 900 call is offered free to the consumer. Finally, we seek comment on what industry practices are regarding consumer dispute resolutions and whether such practices are adequate or effective in resolving consumer disputes.

15. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission has determined that the proposals or options contained in the NPRM concerning the requirement of a preamble, and the prohibition against disconnection of basic local and interexchange service for failure to pay 900 service charges, may have some impact on small entities. Public comment is requested on the initial regulatory flexibility analysis set forth in the full NPRM.

16. This notice and comment rulemaking proceeding is non-restricted. Section 1.1206(a) of the Commission's rules, 47 CFR 1.1206(a), contains provisions governing permissible *ex parte* contacts.

Ordering Clauses

17. Accordingly, *it is ordered,* pursuant to sections 1, 4(i), 4(j), 201–205, 218, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 303(r), that a notice of proposed rulemaking is issued, proposing the amendment of 47 CFR parts 64 as set forth below.

18. *It is further ordered,* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, that all interested parties may file comments on the matters discussed in this NPRM and on the proposed rules contained below by April 24, 1991, and reply comments by May 24, 1991. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

19. *It is further ordered,* That the Chief of the Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

20. *It is further ordered,* That the Secretary shall cause a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a) (1981). The Secretary shall also cause a summary of this NPRM to appear in the **Federal Register.**

List of Subjects in 47 CFR Part 64

Communications Common Carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

It is proposed that part 64 of title 47 of the Code of Federal Regulations be amended as follows:

1. The authority citation for part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, unless otherwise noted.

2. New §§ 64.710 through 64.714 are added to read as follows:

§ 64.710 Limitations on the provision of pay-per-call services.

Common carriers may provide interstate 900 transmission service only under the terms and conditions required by §§ 64.711 through 64.714 of this part.

§ 64.711 Preamble.

(a) Programs must begin with a disclosure message that clearly states the cost of the call. The preamble must disclose all per call charges. If the call is billed on a usage sensitive basis, the preamble must state all rates, by minute or other unit of time, any minimum charges and the average cost for calls to that program unless the average length or the program cannot be determined, as in the case where the caller is in sole control of the length of program because of his ability to select portions of the

program by entering responses on a touchstone keypad or other device;

(b) The preamble must accurately describe the information, product or service which the caller will receive for the fee;

(c) The preamble must inform the caller that billing will commence only after a specific, identified event following the disclosure message such as a signal tone;

(d) The preamble associated with interstate 900 offerings aimed at or likely to be of interest to children under the age of eighteen must contain a statement that the caller should hang up unless he or she has parental permission; and

(e) A caller may be provided the means to bypass the preamble on subsequent calls, unless the charge for those calls has increased since the caller's last use, provided that the caller is in sole control of that capability.

§ 64.712 Identification of information providers.

The carrier providing interstate 900 transmission service shall provide the name, address and customer service telephone number of any information provider to whom it provides 900 services, either directly or through another entity such as a service bureau, as well as that information for any other entity to whom the caller might be responsible for paying the 900 service charge. The carrier shall provide that information upon verbal or written request.

§ 64.713 Blocking of 900 service.

Local exchange carriers must offer to their subscribers, where technically feasible, an option to block all interstate 900 services. Blocking is to be offered at no charge on a one-time basis to all telephone subscribers.

64.714 No disconnection for failure to pay 900 service charges.

No common carrier shall disconnect, or order the disconnection of, a telephone subscriber's basic communications service as a result of that subscriber's failure to pay interstate 900 service charges.

[FR Doc. 91-7952 Filed 4-4-91; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Parts 64 and 68

[CC Docket No. 91-35; DA 91-365]

Operator Service Access and Pay Telephone Compensation

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; denial of request for extension of time.

SUMMARY: In this rule making proceeding, the Commission ordered that initial comments be filed by April 5, 1991, and reply comments by April 19, 1991. On March 20, 1991, the American Public Communications Council moved that these deadlines be extended to April 12 and April 26, 1991, respectively. The Deputy Chief, Common Carrier Bureau, denied the motion because of the necessity of meeting the relevant statutory deadline for the proceeding and because interested parties have been provided with sufficient time to study the Commission's proposals.

DATES: Comments must be filed on or before April 5, 1991, and replies must be filed on or before April 19, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kurt A. Schroeder, Enforcement Division, Common Carrier Bureau (202) 632-4887.

SUPPLEMENTARY INFORMATION:

Order

Adopted: March 27, 1991; Released: March 28, 1991.

In the matter of policies and rules concerning operator service access and pay telephone compensation.

By the Deputy Chief, Common Carrier Bureau:

1. On March 20, 1991, the American Public Communications Council (APCC) filed a "Request for Extension of Time," moving that we extend the deadlines for filing initial comments and reply comments in the above-captioned proceeding to April 12 and April 26, 1991, respectively.[1] In support of its request, APCC cites the complexities of the issues in this proceeding and the scheduling of its own seminar program and trade show on dates shortly before the initial comment deadline. APCC states that it wishes to consult its members at the meetings before submitting its comments in this docket.

2. It is the policy of the Commission that extensions of time shall not be routinely granted.[2] As APCC recognizes in its motion, the Commission must meet a statutory deadline in this proceeding.[3] Given this requirement, any extension of the filing deadlines would limit the amount of time that can be devoted to consideration of the comments and replies that are ultimately filed. Moreover, we do not wish to delay unnecessarily the expeditious resolution of this proceeding. We believe that parties interested in this proceeding have had sufficient time to study the implications of the Commission's proposals. Hence, we are not persuaded by the circumstances presented by APCC and do not believe that an extension of time is warranted.

3. Accordingly, *it is ordered,* pursuant to authority delegated in § 0.291 of the Commission's Rules, 47 CFR 0.291, that the Request for Extension of Time filed by the American Public Communications Council on March 20, 1991, *is denied.*

Federal Communications Commission.

Gerald P. Vaughan,

Deputy Chief, Operations, Common Carrier Bureau.

[FR Doc. 91-8066 Filed 4-4-91; 8:45 am]
BILLING CODE 6712-01-M

[1] In the Notice of Proposed Rule Making that initiated this proceeding, the Commission ordered that initial comments be filed by April 5, 1991, and that reply comments be filed by April 19, 1991. *Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation*: Notice of Proposed Rule Making, CC Docket No. 91-35, FCC 91-53, para. 36 (released March 11, 1991) (hereinafter *NPRM*).

[2] See § 1.46(a) of the Commission's Rules, 47 CFR 1.46(a).

[3] The Commission initiated this proceeding pursuant to section 226(e) of the Telephone Operator Consumer Services Improvement Act of 1990, Public Law No. 101-435, 104 Stat. 986 (1990) (to be codified at 47 U.S.C. 226). Under that provision, the Commission must consider specified operator service access and payphone compensation issues within 9 months of the statute's enactment, i.e., by July 17, 1991. See 47 U.S.C. 226(e).

47 CFR Part 73

[MM Docket No. 91-74, RM-7163]

Radio Broadcasting Services; West Palm Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Pearl Broadcasting, Inc., proposing the substitution of Channel 221C3 for Channel 221A at West Palm Beach, Florida, and modification of its license to specify the higher class channel. Channel 221C3 can be allotted to West Palm Beach in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.6 kilometers (7.2 miles) north, in order to avoid a short-spacing to a construction permit for Station WZZR(FM), Channel 224C2, Stuart, Florida. The coordinates for this proposed allotment are North Latitude

26–49–14 and West Longitude 80–02–26. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest nor require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before May 24, 1991, and reply comments on or before June 10, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Thomas Schattenfield, Susan A. Marshall, Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Avenue, NW., Washington, DC 20036–5339 (Attorneys for petitioners).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–74, adopted March 22, 1991, and released April 2, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8067 Filed 4–4–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–76, RM–7647]

Radio Broadcasting Services; Reserve, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Virgie Hare du Treil, permittee of Channel 235A, Reserve, Louisiana, proposing the substitution of Channel 235C3 for Channel 235A at Reserve, and modification of his authorization accordingly, to provide the community with a wide coverage area FM service. Channel 235C3 can be allotted to Reserve in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.0 kilometers (13.1 miles) southwest of the community to avoid short-spacing to vacant but applied for Channel 234A at Lacombe, Louisiana. The coordinates for the allotment of Channel 235C3 at Reserve, Louisiana, are North Latitude 29–58–37 and West Longitude 90–45–01. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 235C3 at Reserve or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before May 24, 1991, and reply comments on or before June 10, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Virgie Hare du Treil, 1500 East Airline Highway, LaPlace, Louisiana 70068 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–76, adopted March 22, 1991, and released April 2, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *all ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8068 Filed 4–4–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–73, RM–7609]

Radio Broadcasting Services; New Bern and Oriental, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Conner Media Corporation seeking the substitution of Channel 231C3 for Channel 231A at New Bern, North Carolina, the reallotment of Channel 231C3 from New Bern to Oriental, North Carolina, and the modification of Station WZYH–FM's construction permit to specify Oriental as its community of license. Channel 231C3 can be allotted to Oriental in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.2 kilometers (8.2 miles) west to accommodate petitioner's desired transmitter site. The coordinates for Channel 231C3 at Oriental are North Latitude 35–00–02 and West Longitude 76–49–58. In accordance with § 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 231C3 at Oriental or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before May 24, 1991, and reply comments on or before June 10, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Miriam C. Kircher, Esq., 1745 Cy Court, Vienna, Virginia 22182 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–73, adopted March 22, 1991, and released April 2, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8070 Filed 4–4–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–75, RM–7230]

Radio Broadcasting Services; Conway, SC and Myrtle Beach, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Pinnacle Southeast, Inc., seeking the reallotment of Channel 281C1 from Conway, South Carolina to Myrtle Beach, South Carolina, and the modification of it license for Station WYAV to specify the new community. Channel 281C1 can be allotted to Myrtle Beach in compliance with the Commission's minimum distance separation requirements at the station's present transmitter site. The coordinates for this allotment are North Latitude 33–35–27 and West Longitude 79–02–53. In accordance with Section 1.420 of the Commission's Rules, we will not accept competing expressions of interest in use of the channel at Myrtle Beach or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such interested parties.

DATES: Comments must be filed on or before May 24, 1991, and reply comments on or before June 10, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott A. McCreight, Wilmer, Cutler & Pickering, 2445 M Street NW., Washington, DC 20037–1420 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–75, adopted March 22, 1991, and released April 2, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714—21st Street NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8071 Filed 4–4–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–77, RM–7644]

Radio Broadcasting Services; Pentwater, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by C&S Broadcasting, Inc., proposing the substitution of Channel 231C3 for Channel 231A at Pentwater, Michigan, and modification of the construction permit for Station WSAB. Canadian concurrence will be requested for the allotment at coordinates 43–46–38 and 86–26–25.

DATES: Comments must be filed on or before May 24, 1991, and reply comments on or before June 10, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: C&S Broadcasting, Inc., 7640 Ravenswood Drive, Portage, Michigan 49002, (Petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–77, adopted March 22, 1991, and released April 2, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this

one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–8069 Filed 4–4–91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Extension of Public Comment Period on Proposed Endangered Status for Plant Limnanthes floccosa ssp. californica (Butte County meadowfoam)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act), gives notice that a public hearing will be held on the proposed endangered status for a plant, *Limnanthes floccosa* ssp. *californica*. The hearing will allow all interested parties to submit oral or written comments on the proposal. In addition, the Service extends the public comment period from April 16, 1991, to May 6, 1991. The proposed rule was published February 15, 1991, at 56 FR 6345.

DATES: The public hearing will be held from 6 p.m. to 9 p.m. on Thursday, April 25, 1991, in Chico, California. Comments from all interested parties must be received by May 6, 1991. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held in the City Council Chamber, Chico Municipal Center, 421 Main Street, Chico, California. Written comments and materials should be sent directly to Mr. Wayne S. White, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Station, 2800 Cottage Way, Room E–1803, Sacramento, California 95825. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Jim A. Bartel, Sacramento Field Station, at the above address (telephone (916) 978–4866 or FTS 460–4866).

SUPPLEMENTARY INFORMATION:

Background

Limnanthes floccosa ssp. *californica*, a small white-flowered annual plant, is threatened principally by urban development in the undeveloped northern and eastern portions of the City of Chico in Butte County, California. In addition, conversion of the plant's habitat, vernal pools and ephemeral drainages, for agricultural purposes threatens the plant. Overgrazing by livestock, garbage dumping, off-road vehicle use, competing alien vegetation, poor air quality, and stochastic (random) extinction by virtue of the small isolated nature of the remaining populations threaten the subspecies to some degree. A proposed rule to list *L. floccosa* ssp. *californica* as an endangered species was published in the **Federal Register** (56 FR 6345) on February 15, 1991.

Section 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1533(b)(5)(E)), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. On March 12, 1991, the Service received a written request for a public hearing from Mr. Tom Guarino of the Chico Greater Chamber of Commerce. As a result, the Service scheduled a public hearing for April 25, 1990, from 6 p.m. to 9 p.m. in the City Council Chamber, Chico Municipal Center, 421 Main Street, Chico, California.

Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments will be given the same weight as oral comments. The comment period closes on May 6, 1991. Written comments should be submitted to the Service in the ADDRESSES section.

Author

The primary author of this notice is Mr. Jim A. Bartel, Sacramento Field Station, at the above address.

Authority

The authority for this section is the Endangered Species Act (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: March 29, 1991.

William E. Martin,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 91–8016 Filed 4–4–91; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 910379–107]

RIN 0648–AD90

Endangered and Threatened Species; Proposed Endangered Status for Snake River Sockeye Salmon

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS is issuing a proposed determination that the Snake River sockeye salmon (*Oncorhynchus nerka*) is a "species" under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (ESA). Furthermore, NMFS proposes to list the Snake River sockeye salmon as endangered under the ESA. The Snake River sockeye salmon has declined to extremely low numbers. Current production is limited to Redfish Lake in the Salmon River Basin in Idaho. Hydropower development, water withdrawal and diversions, water storage, commercial harvest, and inadequate regulatory mechanisms are factors contributing to the decline and represent a continued threat to the Snake River sockeye salmon's existence. Should the proposed listing be made final, the prohibitions of the ESA would be in effect and a recovery program would be implemented.

DATES: Comments from all interested parties must be received by June 4, 1991. Public hearings are scheduled as follows:

1. May 8, 1991, at 9:30 a.m., Seattle, Washington;
2. May 9, 1991, at 9:30 a.m., Portland, Oregon;
3. May 10, 1991, at 9;30 a.m., Boise, Idaho.

ADDRESSES: Comments on this proposed rule should be sent to the Environmental and Technical Services Division, NMFS, Northwest Region, 911 NE. 11th Avenue, suite 620, Portland, OR 97232, or provided at any one of the public hearings. The hearings will be held at the following locations:

1. NOAA, Western Administrative Support Center, Building 9, 7600 Sand Point Way, NE., Seattle, Washington;
2. 1st Floor West Side, Federal Complex, 911 NE. 11th Ave., Portland, Oregon;
3. Boise Interagency Fire Center, 3905 Vista Ave., Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Tracey Vriens, Environmental and Technical Services Division, NMFS, Portland, Oregon, 503–230–5420 or FTS–429–5420.

SUPPLEMENTARY INFORMATION:

Background

NMFS initiated a status review of sockeye salmon (*Oncorhynchus nerka*) in the Salmon River, a tributary of the Snake River, on April 9, 1990 (55 FR 13181). NMFS also received a petition (April 2, 1990) from the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation to list Snake River sockeye salmon as endangered under the ESA. NMFS published a notice on June 5, 1990 (55 FR 22942), that the petition presented substantial scientific information indicating that the listing may be warranted and requested information from the public.

NMFS has reviewed all available scientific information pertaining to the status of Snake River sockeye salmon. The assist in this review, NMFS convened a Technical Committee to provide information and to review and comment on the data in the record. The Technical Committee consists of representatives from Federal and state fisheries agencies, Indian tribes, industries, and public interest groups that have technical expertise relevant to sockeye salmon. NMFS Northwest Region Biological Review Team has prepared a technical paper "Status Review Report for Snake River Sockeye Salmon" (Waples *et al.* 1991) that is available upon request (see **FOR FURTHER INFORMATION CONTACT**)

Snake River Sockeye Salmon

The Snake River (Redfish Lake) sockeye salmon is one of three remaining stocks of sockeye salmon in the Columbia River system, the other two being in the upper Columbia River. Snake River sockeye salmon enter the Columbia River primarily during June and July. Arrival into Redfish Lake, which now supports the only remaining run of Snake River sockeye salmon, peaks in August and spawning occurs near the shoals along the lake's shoreline primarily in October (Bjornn *et al.* 1968). Shoal spawning is less typical of sockeye salmon than spawning in lake tributary or inlet streams (Foerster 1968; Scott and Crossman 1979). Kokanee, a permanent freshwater form of *O. nerka*, are also produced in Redfish Lake and in other Stanley Basin lakes, including Alturas, Pettit, and Yellowbelly Lakes.

Eggs hatch in the spring between 80 and 140 days after spawning. Fry remain in the gravel for 3 to 5 weeks, emerging April through May and, if hatched in inlet (or outlet) streams, move immediately into the lake, where juveniles feed on plankton for 1 to 3 years before migrating to the ocean (Bell 1986). Juvenile residence of sockeye salmon in Redfish Lake rarely exceeds 2 years (Bowles and Cochnauer 1984).

Migrants leave Redfish Lake when temperatures are between 38° to 50° F, from late April through May (Bjornn *et al.* 1968), and smolts migrate almost 900 miles (1440 kilometers) to the ocean, where they remain inshore or within their home river's influence zone for the early summer. Later, they migrate through the northeast Pacific Ocean (Hart 1973; Hart and Dell 1986). Snake River sockeye salmon usually spend 2 years in the ocean and return in their fourth or fifth year of life. The survival rate for Snake River sockeye salmon, from the time they migrate from the lake to returning adults, is between 0.14 to 1.83 percent (Bjornn *et al.* 1968).

Consideration of Snake River Sockeye Salmon as a "Species" under the ESA

To consider the Snake River sockeye salmon for listing, it must qualify as a "species" under the ESA. The ESA defines a "species" to include any "distinct population segment of any species of vertebrate * * * which interbreeds when mature." NMFS published an interim policy (March 13, 1991; 56 FR 10542) on how it will apply the ESA species definition in evaluating Pacific salmon stocks. A salmon stock will be considered a distinct population, and hence a species under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. The stock must satisfy two criteria to be considered an ESU:

(1) It must be reproductively isolated from other conspecific population units; and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units. The second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. Further guidance on application of this policy is contained in the NMFS paper "Definition of Species under the Endangered Species Act: Application to Pacific Salmon" (Waples 1991).

In this case, the question of population distinctness is complicated by the presence of kokanee in Redfish Lake. One hypothesis is that the sockeye and kokanee share a common gene pool. If so, they should be considered as a unit in ESA evaluations. If the two forms are reproductively isolated, they should be considered separately.

No adult sockeye salmon from Redfish Lake were available for genetic studies to compare them with kokanee sampled from the lake in 1990. However, other evidence suggests that the two forms are distinct (Waples *et al.* 1991). Recent studies of *O. nerka* in other areas of the Pacific Northwest (Foote *et al.* 1989) found substantial genetic differences between the two forms, in spite of occasional cross-spawning behavior and viability of hybrids through early life-history stages in culture. Foote *et al.* (1989) found significant differences in the frequencies of alleles between sockeye salmon and kokanee in each of the lake systems they studied, and also found that the magnitude of genetic divergence between sympatric sockeye salmon and kokanee increased with distance upriver from the ocean. An electrophoretic survey conducted by NMFS for this status review also found substantial genetic differences between sockeye salmon and kokanee in two river/lake systems where they co-occur (Monan 1991). Thus, it is likely that, historically, sockeye salmon and kokanee were reproductively isolated in Redfish Lake. Recent observations at Redfish Lake support the hypothesis that the two forms remain distinct. Kokanee continue to spawn in the inlet (Fishhook Creek) in August/September, but sockeye salmon spawn later (generally October) and only along the shores of the lake (Bjornn *et al.* 1968; Fulton 1970; Bowler 1990).

An alternative hypothesis, that Sunbeam Dam caused the extinction of

the original sockeye salmon gene pool and that recent anadromous *O. nerka* in Redfish Lake have resulted from the seaward drift of kokanee, was also considered (see discussion under "Status of Snake River Sockeye Salmon" below). Although it is known from studies in other geographical areas that kokanee can occasionally produce anadromous fish, number of outmigrants that successfully return as adults is typically quite low. There is no evidence that kokanee anywhere have naturally produced a sustained run of sockeye salmon. Thus, if kokanee were responsible for post-Sunbeam Dam anadromous *O. nerka* in Redfish Lake, it would be an unprecedented occurrence for the species (Waples *et al.* 1991).

Given evidence that sockeye salmon continued to pass Sunbeam Dam prior to its removal, and given the uncertainty regarding the ability of Redfish Lake kokanee to produce anadromous *O. nerka* in the numbers observed, NMFS is proceeding on the premise that the original sockeye salmon gene pool still exists in Redfish Lake and is distinct from the kokanee (Waples *et al.* 1991).

Available information indicates that Snake River sockeye salmon are also reproductively isolated from other sockeye salmon populations and represent an important component in the evolutionary legacy of the species. The great distance (over 700 river miles (1,127 kilometers)) separating Redfish Lake from the nearest sockeye salmon populations in the upper Columbia River ensures a strong degree of reproductive isolation. There is no evidence of straying of sockeye salmon from the upper Columbia River or elsewhere into Redfish Lake (Waples *et al.* 1991).

Redfish Lake supports the world's southernmost natural sockeye salmon population. Sockeye salmon returning to Redfish Lake also travel a greater distance from the sea (almost 900 miles (1,448 kilometers)) and to a higher elevation (6,500 feet (1,219 meters)) than do sockeye salmon anywhere else in the world. In contrast, sockeye salmon in the upper Columbia Basin spawn at elevations more than 4,000 feet lower. Furthermore, the upper Columbia River populations are in a different ecoregion domain (humid temperate) than is Redfish Lake (dry) (Waples *et al.* 1991). Collectively, these data argue strongly for the ecological uniqueness (with respect to sockeye salmon) of the Snake River habitat and make it likely that the Redfish Lake population contain unique adaptive genetic characteristics.

Electrophoretic studies of sockeye salmon throughout North America and Asia typically have found substantial genetic differences between sockeye salmon stocks from different river systems (e.g., Utter *et al.* 1984; Foote *et al.* 1989; Monan 1991). Furthermore, a recent study (Monan 1991) demonstrated that samples of kokanee from Redfish and Alturas Lakes are genetically similar to each other but quite distinct from samples from other lakes in Idaho, Washington, and British Columbia. These results suggest that, although the relevant data are not available for Redfish Lake sockeye salmon, this population is probably genetically distinct from other sockeye salmon populations.

NMFS concludes that the best available information indicates that this stock meets both of the criteria necessary to be considered an ESU. Therefore, NMFS is issuing a proposed determination that the Snake River sockeye salmon is a "species" under the ESA.

Status of Snake River Sockeye Salmon

Historically, sockeye salmon were produced in Idaho in the Stanley Basin of the Salmon River in Alturas, Pettit, Redfish, Yellowbelly and Stanley Lakes and may have been present in one or two other Stanley Basin lakes (Bjornn *et al.* 1968). Welsh *et al.* (1965) also included Little Redfish Lake, on Redfish Creek downstream from Redfish Lake, as sockeye salmon habitat. Outside of the Salmon River Basin, but within the Snake River Basin, sockeye salmon were produced in Big Payette Lake on the North Fork Payette River and in Wallowa Lake on the Wallowa River (Evermann 1895; Toner 1960; Bjornn *et al.* 1968; Fulton 1970).

In 1881, 2,600 pounds (1,180 kilograms) of fresh sockeye salmon were taken by prospectors at Alturas Lake, near Redfish Lake in the Stanley Basin (Evermann 1896). However, agricultural diversions using all the water in Alturas Lake Creek currently prevent adult sockeye salmon from migrating upstream and eliminates production in Alturas Lake. Treatment of Pettit and Yellowbelly Lakes with piscicides (chemicals used to kill fish) in 1961 and 1962 and the operation of migration barriers to prevent warmwater fish species from reinhabiting the lakes eliminated juvenile sockeye salmon and prevented adult salmon access.

There is no reliable information on the numbers of sockeye salmon spawning in Redfish Lake in the early 1900s (Bjornn *et al.* 1968). However, Evermann (1895, 1896) reported that there were plans to build a cannery there.

Construction of Sunbeam Dam in 1910, 20 miles (32.2 kilometers) downstream from Redfish Lake Creek on the mainstem Salmon River, seriously impeded sockeye salmon access to the Stanley Basin lakes. The original adult fishway was constructed with wood and was ineffective in passing fish over the dam (Kendall 1912; Gowen 1914). It was replaced in 1920 with a concrete adult fishway that improved passage.

There is a difference of opinion regarding the effects of Sunbeam Dam on the original sockeye salmon run to lakes in the Stanley Basin. Some argue that the dam represented a complete barrier to upstream passage for enough years that the original anadromous run was eliminated (Chapman *et al.* 1990). On the other hand, eyewitness accounts (Jones 1991) document adult sockeye salmon spawning in Redfish Lake in a number of years prior to and immediately after partial removal of the dam in 1934. Subsequently, Parkhurst (1950) reported sockeye salmon spawning in the lake in 1942.

Escapement of sockeye salmon to the Snake River has declined dramatically in recent years. Counts made at Lower Granite Dam (the first dam on the Snake River downstream from the confluence of the Salmon River) since 1975 have ranged from 531 in 1976 to 0 in 1990. It should be noted that the number of fish counted at a dam may differ from the number actually passing; some fish may pass during non-counting periods or may pass through navigation locks. Records are available on escapement into Redfish Lake for the years 1954 through 1966 and from 1985 through 1987. During these years, the Idaho Department of Fish and Game (IDFG) enumerated adult sockeye salmon at Redfish Lake weirs. In the years from 1954 through 1966, the number of adults counted by IDFG varied from 4,361 in 1955, to 11 in 1961, to 335 in 1964. In the years 1985 through 1987, IDFG operated a temporary weir at Redfish Lake Creek. The total escapement in these years was 12 in 1985, 29 in 1986, and 16 in 1987. In 1988, IDFG also conducted spawning ground surveys that identified four adults and two redds (gravel mounds in which the eggs are deposited). In 1989, one adult was passed into Redfish Lake and one redd and a second potential redd were identified. No redds or adults were identified in 1990.

Summary of Factors Affecting the Species

An endangered species is any species in danger of extinction throughout all or a significant portion of its range; a threatened species is any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(a) of the ESA requires that the listing

determination be based solely on the best scientific and commercial data available, without reference to possible economic or other impacts of such determination. Species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1) of the ESA. These factors, as they apply to Snake River sockeye salmon, are discussed below.

1. The Present or Threatened Destruction, Modification or Curtailment of its Habitat or Range

(a) *Hydropower development.* Dams and reservoirs have substantially reduced the abundance of salmon in the Columbia River Basin. The Northwest Power Planning Council (NWPPC) estimated that current annual salmon and steelhead production in the Columbia River Basin is more than 10 million fish below historical levels, with 8 million of this annual loss estimate attributable to hydropower development and operation (NWPPC 1987). The NWPPC further estimated that approximately half of the 8 million fish loss was caused by the loss of habitat blocked by Chief Joseph and Hells Canyon Dams in the upper Columbia and Snake Rivers. The remaining 4 million fish loss was attributed to ongoing annual passage losses at and between the eight mainstem projects below Chief Joseph and Hells Canyon Dams. Although the specific number of Snake River sockeye salmon lost is unknown, they are included in the overall numbers presented by the NWPPC.

(1) *Juvenile sockeye salmon passage.* Juvenile Snake River sockeye salmon migrants must pass eight hydroelectric projects between upriver rearing areas and the ocean. Each project includes a dam and a reservoir, both of which decrease the survival of juvenile migrants. System mortality estimates include loss at the dams and in the reservoirs. Additional impacts not included in these estimates could also occur due to sub-lethal effects attributable to passage. These sub-lethal impacts (e.g., stress, injury and delay) can affect long-term survival (Matthews *et al.* 1987; Johnson *et al.* 1990; and Hawkes *et al.* 1991).

Although no system mortality studies have been conducted specifically with sockeye salmon, studies have been conducted with other species of salmon in the Columbia and Snake Rivers. Studies using Snake River steelhead and chinook salmon released above the dams and later recovered in the lower Columbia River provide an annual loss estimate per project (dam and reservoir) in the range of 13 to 54 percent (average 28 percent). Assuming the average rate per project, the cumulative mortality over eight dams would be 93 percent. The greatest mortality occurred in years when Snake and Columbia River flows during the spring migration were low. Estimates of cumulative losses of inriver migrants past eight dams approached 100 percent in these low flow years (Raymond 1979; Sims and Ossiander 1981). Similar studies with chinook salmon in the Columbia River above the confluence with the Snake River resulted in an estimated annual loss per project in the range of 13 to 25 percent (Chapman and McKenzie 1980; McKenzie *et al.* 1983; and McKenzie *et al.* 1984). The Columbia River studies included no low flow years.

Injury and mortality can occur through each dam passage route (turbines, spillways, ice and trash sluiceways, and juvenile fish bypass systems), but there are numerous studies documenting that loss rates from passage through turbines is generally high relative to the other routes of passage.

One means of avoiding juvenile losses at dams is to collect and transport juveniles around the dams. While such transportation has been shown to have positive benefits for some salmon and steelhead stocks, for other stocks, the benefit is unclear. Most of these studies used steelhead, chinook or coho salmon. No studies have been done specifically on Snake River sockeye salmon. Limited information on Columbia River sockeye salmon suggests that this species is more susceptible to physical injury and mortality in project passage and handling than are other species (Gessel *et al.* 1988; Johnsen *et al.* 1990; Koski *et al.* 1990; Parametrix 1990; and Hawkes *et al.* 1991).

Fish mortality also occurs while juveniles are in reservoirs. Causes include predation, disease, temperature, and other factors that affect the condition of the environment or the fish at the time of their transition to saltwater. Dissolved gas supersaturation due to spill of water at the dams was also identified as a significant cause of mortality in the 1970s, but increased hydraulic capacity at the mainstem projects, greater flow control, and structural modifications to some spillways have substantially reduced this problem. Some fish also lose the urge to migrate. These fish remain in the reservoir and are lost to the migrating population.

Delay of migration during reservoir passage may also result in a loss. Because salmon and steelhead must undergo a temporary physiological change that enables them to make the transition from fresh to saltwater, delay can cause the fish to either cease migrating or to arrive at the ocean and be unable to adapt to saltwater. Delay can also increase predation due to both increased exposure time and an increasing preditation rate that accompanies a rise in temperatures through the spring and into summer (Columbia Basin Fish and Wildlife Authority (CBFWA) 1991).

Juvenile fish passage through reservoirs has been estimated to take one-third to one-half longer than passage through free-flowing water stretches (Raymond 1988). Delay in mainstem reservoirs is the result of low water velocity from two causes. The first is increased cross-sectional area of the river due to impounding the water above the dam. The second is the reduction in spring and summer flows due to withdrawals of water for irrigation and the use of headwater storage reservoirs to impound water during the spring and summer snowmelt. Impounded water is used for hydroelectric power in fall and winter when the regional energy demand is greatest.

The present management of water in the Columbia River system does not provide adequate flows and velocity to move downstream migrants safely to saltwater. As a result, many stocks of salmon and steelhead (including Snake River sockeye salmon) are continuing to decline.

(2) *Adult sockeye salmon passage.* Cumulative adult passage loss for salmon passing mainstem dams can be substantial. Analysis of adult Columbia and Snake River sockeye counts for Bonneville and Priest Rapids/Ice Harbor Dams (Ross 1991b), adjusted for commercial, ceremonial and subsistence fisheries, showed an average annual loss of 10.5 percent (2.7 percent per dam) in the lower Columbia River since completion of the last dam in this reach in 1968 (Washington Department of Fisheries and Oregon Department of Fish and Wildlife, 1990). Assuming a similar loss per project in the Snake River, an additional 8 percent loss would occur from Ice Harbor Dam to Lower Granite Dam.

Delay at dams can also be an important factor in the survival of Snake River adult sockeye salmon. Factors influencing delay include the effectiveness of fish passage facilities, powerhouse and spillway operations, flow, and water quality. Average delay for adult salmonids at a Columbia River mainstem dam is about 1 to 3 days when good passage conditions exist (Ross

1983; Turner 1984). Average delay at a lower Snake River mainstem dam is about 1 to 2 days when little or no spill is occurring, increasing to about 5 to 7 days during high spill (Turner 1983; Turner 1984). Radio-tagged sockeye salmon had a mean passage time of 74 (range 5 to 150) hours at Bonneville Dam in 1982 (Ross 1983) and 24 (range 3 to 73) and 16 (range 2 to 49) hours at McNary and John Day Dams, respectively, in 1985 (Shew 1985).

Delay can be greater when adult passage facilities are not operated consistent with established criteria (i.e., at reduced hydraulic head and weir depths attraction flows at entrances are reduced). Inadequate water velocity inside fish ladders also increases delay. Fish Passage Center (FPC) Adult Fishway Inspections Annual Reports (1988, 1989, 1990) indicate that mainstem dam adult fishways are operating below velocity criteria a substantial amount of time (Ross 1991a).

Because sockeye salmon do not feed during their upstream migration, delays during migration may deplete limited energy reserves and reduce survival. Delays of as little as 3 to 4 days at migration barriers have been associated with pre-spawning mortality (CDE and IPSFC 1971).

Adult salmon fall back through spillways at dams can be as high as 58 percent (Monan and Liscom 1975). Most adult fish that fall back reascend the fishways and continue their migration. Fallback can also occur through turbines, which can result in mortalities of at least 22 to 41 percent (Wagner and Ingram 1973). Dissolved gas supersaturation caused by large amounts of water spilling over dams can also result in injury and death to adult salmon.

(b) *Water withdrawal and storage.* Diversion and storage of water within the Columbia River has decreased water availability and altered historical run-off patterns in the Columbia River Basin. In addition, unscreened water diversions have often permitted juvenile anadromous fish to move onto irrigated lands and be lost.

Within the Snake River system, the major consumptive use of water is for agricultural irrigation. Both Federal and private reservoirs store natural flows from the Snake River Basin for agriculture. The total annual discharge of the Snake River is approximately 36 million acre-feet (MAF) (44.4 cubic kilometers). Approximately 16 MAF (19.73 cubic kilometers) are diverted annually from the Snake River and of this, 6 MAF (7.4 cubic kilometers) are consumed by agriculture.

Total active storage (the amount of water that can be removed from a reservoir) in the Snake River Basin above Hells Canyon Dam (including Brownlee Reservoir) is approximately 11.3 MAF (13.94 cubic kilometers). The amount of active storage available for use varies from year to year, depending on rainfall and run-off. This storage alters timing or peak flows in the Snake River that would, under natural conditions, have occurred during the spring run-off when juvenile anadromous fish are migrating.

Water diversions have had a significant impact on Stanley Basin sockeye salmon populations. Chapman *et al.* (1990) listed agricultural diversion among the causes of the sockeye salmon's decline from all Stanley Basin lakes, including Redfish Lake. Chapman *et al.* (1990) notes that more than 68 agricultural diversions are present on the Salmon River and tributaries within the Sawtooth National Recreation Area (SNRA). Agricultural diversion at Busterbach Ranch, on Alturas Lake Creek in the Stanley Basin, completely de-waters the creek, totally blocking sockeye salmon from Alturas Lake (Bowles and Cochnaur 1984; Chapman *et al.* 1990; IDFG 1990). Screens have been installed in the Salmon River Basin since the mid-1950's to prevent fish from entering diversions (Delarm and Wold 1985). However, many Stanley Basin streams in the SNRA were not screened until the mid to late 1970s and some unscreened diversions still exist.

In the Columbia River Basin above the confluence with the Snake River, a significant amount of water is also withdrawn for agricultural irrigation. For instance, irrigation diversion at the Bureau of Reclamation's (BOR) Columbia Basin Project above Grand Coulee Dam averaged 2.3 MAF (2.84 cubic kilometers) annually between 1968 and 1987 (BOR 1989).

The BOR (1989) evaluated the impact on fishery resources from proposed increases in agricultural withdrawals at the Columbia Basin Project. By modeling smolt survival for Columbia and Snake River spring chinook and steelhead at various flows, the BOR demonstrated decreased smolt survival with increased Columbia River agricultural withdrawal. Thus, water withdrawals from the Columbia River Basin impact the survival of juvenile salmonids by reducing flow during the time they migrate through the Columbia River to the ocean.

2. Over-utilization for Commercial, Recreational, Scientific or Educational Purposes

Data specific to the exploitation of Snake River sockeye salmon are limited, but available information indicates that commercial fisheries in the lower Columbia, and harvest on the spawning grounds, were primary factors in the decline of Columbia River sockeye salmon (Fulton 1970).

The sockeye salmon fishery in the lower Columbia River began in 1889 and peaked in 1898 when harvest exceeded 4.5 million pounds (2.04 million kilograms) (Fulton 1970). Between 1905 and 1930, sockeye salmon production in the Columbia River Basin was effectively limited to the Wenatchee, Osoyoos/Okanogan, and Salmon River systems following the construction of barriers to fish passage in the Yakima, Payette, Wallowa, and Arrow Lakes systems.

In the years from 1960 to 1973, commercial and tribal sockeye salmon fisheries in the Columbia River, downstream from the Snake River, averaged 35,956 fish. Non-treaty and treaty commercial fisheries for sockeye salmon were closed from 1974 through 1983. Harvest figures for tribal ceremonial and subsistence fisheries were first reported in 1977 and averaged more than 1,000 fish annually and ranged up to 2,131 fish (1984) through 1990. From 1975 to 1983, annual sockeye salmon counts over Lower Granite Dam averaged 221 fish, ranging from 25 to 531. Commercial fisheries for sockeye salmon resumed in 1984 and escapement over Lower Granite Dam from 1984 to 1989 declined to an annual average of only 26 fish, (ranging from 2 to 49).

Salmon River sockeye salmon generally comprised less than 1 percent of the sockeye salmon entering the Columbia River between 1954 and 1966 (Bjornn *et al.* 1968). It is likely that Salmon River, Wenatchee and Osoyoos/Okanogan sockeye salmon have overlapping in river migration timing and therefore are harvested at similar rates (ODFW and NMFS 1990). Considering the low abundance of Salmon River sockeye salmon relative to Wenatchee and Osoyoos/Okanogan River sockeye salmon, and their similarly timed migration, Salmon River sockeye salmon may be subjected to excessive exploitation during inriver fisheries. Bjornn *et al.* (1968) reported that the number of adults returning to Redfish Lake appeared to be related somewhat to the fisheries in the low Columbia River. A disproportionately high number of Redfish Lake sockeye

salmon may have been harvested since Columbia River fisheries were selective for larger fish and Redfish Lake sockeye salmon are relatively large compared to Columbia River sockeye salmon (Bjornn *et al.* 1968).

The recreational harvest of sockeye salmon in the Columbia River is negligible (Washington Dept. of Fisheries and Oregon Dept. of Fish and Wildlife 1990).

The ocean harvest of sockeye salmon is believed to be relatively insignificant. The catch of all Pacific salmon off Oregon, Washington, and California includes fewer than 100 sockeye salmon annually (Pacific Fishery Management Council 1990). Other possible areas of ocean catch are in the high seas driftnet fishery and the troll fishery off British Columbia. Although no information is available to identify Snake River sockeye salmon in these high seas and British Columbia catches, the numbers of Snake River sockeye would be expected to be low.

Based on existing records, NMFS concludes that fisheries (other than recreational) in the Columbia River and near the spawning grounds have contributed to the decline of Snake River sockeye salmon.

3. Disease or Predation

(a) *Disease.* Sockeye salmon are exposed to numerous bacterial, protozoan, viral, and parasitic organisms in spawning and rearing areas, migratory routes, and the marine environment. Specific disease pathogens such as infectious hematopoietic necrosis virus, *Flexidacteras columnaris, Tricophera* sp., *Ceratomyxa shasta,* as well as others are known to be present. Even though *O. nerka* is susceptible to these, their effect on Snake River sockeye salmon is not documented.

(b) *Predation.* While predation has been investigated for Columbia and Snake River juvenile and adult salmon migrants in general, little information exists for Snake River sockeye runs specifically. However, because juvenile Snake River sockeye salmon migrate with other Columbia River spring and summer migrating salmon, the rate of predation should be similar for all of these species.

(1) *Freshwater predation.* There are several causes of increased freshwater predation on juvenile salmonids. Non-native predatory species such as walleye (*Stizostedion vitreum vitreum*) have been introduced into the Columbia River system. Native predator populations, including northern squawfish (*Ptychocheilus oregonensis*) and several species of fish-eating birds, have benefitted from dam impoundments that provide foraging areas. Furthermore, various bird species, such as gulls (*Larus* sp.) and common mergansers (*Mergus merganser*), prey on juvenile salmonids in their natal streams and migration corridors. Turbulence at turbine and dam bypass outlets and spillways has increased predator success by disorienting juvenile migrants (Poe *et al.* 1988). Slack water conditions in reservoirs have increased smolt travel time, resulting in an increased exposure to resident predators.

Studies in John Day Reservoir indicated that native northern squawfish were the primary predator of juvenile salmonids, but introduced predators such as walleye, smallmouth bass (*Micropterus dolomieui*), and channel catfish (*Ictalupus punctatus*) also took significant numbers of smolts. These predators were estimated to consume between 9 and 19 percent of the juvenile salmonids entering the reservoir, with northern squawfish accounting for approximately 78 percent of this loss (Poe *et al.* 1988).

Predation on eggs, fry, and pre-smolt sockeye has been estimated in Alturas Lake at up to 60 percent. This was primarily due to large populations of rainbow trout (*Oncorhynchus mykiss*) and dolly varden (*Salvelinus malma*) (Bowles and Cochnauer 1984). Alturas and Redfish lakes were stocked with Kamloops rainbow and eastern brook trout (*Salvalinus fontinalis*) (IDFG Biennial reports 1923–1942, both of which eat fish (Scott and Crossman 1979). Freshwater predation is a factor contributing to the decline of sockeye salmon in the Snake River.

(2) *Marine and estuarine predation.* Marine and estuarine predation of salmonids in general has been extensively investigated, but again, very little information exists for Snake or Columbia River sockeye salmon stocks. NMFS has noted that marine mammal numbers, especially harbor seals and California sea lions, are increasing on the West Coast and increased predation by pinnipeds has been noted in all Northwest salmonid fisheries (NMFS 1988). In 1990, and average of 18 percent of the fish examined at Lower Granite Dam on the Snake River had bite marks thought to be from sea lions (Harmon and Matthews 1990). Of the 34 species of marine mammals known to frequent all salmon occupied waters, 15 are known to prey on salmon (Fiscus 1980). The salmon shark (*Lamna ditropis*) and Pacific hake (*Merluccius productus*) are also thought to be important predators of sockeye salmon (Gilhousen 1989, Beachum 1989). Predation by birds on downstream migrants also occurs in the estuary. Information is not available to determine if marine and estuarine predation has any measurable impact on Snake River sockeye salmon.

4. Inadequacy of Existing Regulatory Mechanisms

There is a wide variety of Federal and state laws that impact the abundance and survival of anadromous fish populations in the Columbia River. These laws, such as the Fish and Wildlife Coordination Act, the Federal Power Act, the Pacific Northwest Electric Power Planning and Conservation Act of 1980 and the Water Resources Development Act, concern fish resource measures at water resource developments, including hydropower projects. Other Federal laws applicable to Snake River sockeye salmon include the National Environmental Policy Act, Federal Water Pollution Control Act, and the Salmon and Steelhead Conservation and Enhancement Act. Some of these laws are summarized below. None of these laws has proven sufficient to prevent the decline of Snake River sockeye salmon.

(a) *Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) (FWCA).* The FWCA requires that wildlife conservation receive equal consideration and be coordinated with other features of water-resource development programs. Federal water development and permitting and licensing agencies are to seek the recommendations of the Federal and state fish and wildlife agencies for mitigation and enhancement of fish and wildlife resources. These recommendations are to be given "full consideration." However, because acceptance of the fish and wildlife agencies' recommendations is not mandatory, they are not always adopted, particularly when they affect another purpose for which a project may be authorized. While the coordination required by the FWCA has been helpful, it is not adequate to protect Snake River sockeye from the harmful impacts of water development activities.

(b) *Federal Power Act (16 U.S.C. 791–825) (FPA).* Non-Federal dam construction and operation for hydropower is authorized by the FPA. Like the FWCA, fish and wildlife agencies have the authority to make recommendations pertaining to project construction and operation actions affecting fish and wildlife. The fish and wildlife agencies' authority was strengthened by the Electric Consumer's Protection Act of 1986, which requires the Federal Energy Regulatory

Commission to include conditions in each license, based on fish and wildlife agencies' FWCA recommendations, to equitably protect, mitigate and enhance fish and wildlife.

The Hells Canyon Complex, licensed under the FPA, is currently owned and operated by the Idaho Power Company, and consists of Hell's Canyon, Oxbow, and Brownlee Dams. The Hell's Canyon Dam, the most downstream dam, poses a complete barrier to anadromous fish passage. The complex was authorized under a single FPA license in 1955. At the time of licensing, there were no downstream Federal dams in the mainstem Snake River and minimum flow requirements for juvenile migration were not included in the license. Modifying the license to include flows adequate for migration would take many years, based on experience with other modification proceedings. The only automatic opportunity for changing the license conditions will come with the project's relicensing, which will likely occur in 2005, at the end of the license's 50-year term.

The overall impact of the FPA has been to increase the number of Columbia River Basin hydropower facilities—some of which adversely impact migrating salmonids, including Snake River sockeye salmon.

(c) *Salmon and Steelhead Conservation and Enhancement Act of 1980 (16 U.S.C. 3301 et seq.).* This Act authorized formation of a Salmon and Steelhead Advisory Commission (SSAC) comprised of state, tribal, Federal, and Pacific Fishery Management Council representatives. It was charged with preparing a comprehensive report for developing a coordination and management structure to address salmon and steelhead stocks of Washington and the Columbia River. The report was to be approved by the Secretary of Commerce (Secretary), and, if an effective management structure could be established, participating agencies would be eligible to receive additional funds for "enhancement" activities.

A report was prepared and submitted to the Secretary for approval. The Secretary returned the report to the SSAC for further work, but funds supporting the SSAC had been spent and no further action was taken. No additional funds were appropriated by Congress for continued work on the report or for constructing enhancement facilities.

While the effort of the SSAC was very useful in developing closer coordination of anadromous fish activities among the agencies, it was inadequate in providing any additional protection to upper Columbia River salmonids.

(d) *Mitchell Act (16 U.S.C. 755–757).* The Mitchell Act was intended to compensate for the progressive decline of Columbia River Basin salmonid resources due to destruction of favorable environmental conditions by hydroelectric development, deforestation, pollution, and water diversions. The Columbia River Fisheries Development Program, administered by NMFS under the Mitchell Act, has a number of successful programs that implement stream improvements, screening of irrigation diversions (some of which have been in the Salmon River basin) and hatchery operations. Although the Mitchell Act has increased fish production and survival, it is limited to screening, stream improvement, and artificial propagation, and alone is inadequate to deal with the comprehensive needs of the Columbia and Snake River Basin salmon problems.

(e) *State laws.* The implementation of the state laws of Oregon, Washington, and Idaho that affect water allocation, water quality, and riparian and wetland protection are very important to the conservation of salmon. One example of water use management that has adversely affected Snake River sockeye salmon is the Busterbach Ranch agricultural diversion, which de-waters Alturas Lake Creek, and prevents sockeye salmon from returning to Alturas Lake.

State laws that require screening of irrigation diversions may also be inadequate. For example, it is illegal in the State of Idaho to receive or take more than 125 cubic feet per second (cfs) (3.54 cubic meters per second) of water from any stream or lake without installing and maintaining a screen to prevent fish from entering therein. For smaller diversions, Idaho state law permits construction and maintenance of irrigation screens by the IDFG. For comparison, the State of Oregon requires diversions of more than 30 cfs (0.85 cubic meters per second) to be screened when gamefish exist. Since the early 1950s, NMFS has been working with the State of Idaho, through the Columbia River Fisheries Development Program, to install screens on approximately 236 diversions in the Salmon River Basin. However, there are still unscreened diversions.

(f) *Harvest regulation.* The only direct fishery harvest on Columbia River Basin sockeye salmon is the mainstem river fishery under the management responsibility of the states and four tribes that are parties to *U.S.* v. *Oregon* (302 F. Supp. 899 (D.Or. 1969), *aff'd*, 529 F.2d 570 (9th Cir. 1976)).

(g) *Pacific Northwest Electric Power Planning and Conservation Act of 1980 (16 U.S.C. 839 et seq.) (NWPA).* The NWPA was passed to encourage efficiency, coordination and regional participation in power planning in the Pacific Northwest while providing protection, mitigation and enhancement of affected fish and wildlife, especially anadromous fish. The NWPA specifically requires that fish and wildlife resources be given equitable treatment in management, operation and regulation of the Columbia River hydroelectric power system. It also requires the development of a comprehensive program to protect, mitigate and enhance fish and wildlife in the Columbia Basin. The NWPA established the Northwest Power Planning Council (NWPPC) to coordinate power planning and fish and wildlife measures.

In 1982, in accordance with section 4(h) of the NWPA, the NWPPC adopted a Fish and Wildlife Program (FWP) based on recommendations of the Region's Federal and state fish and wildlife agencies and Indian tribes. The agencies responsible for managing, operating and regulating Federal and non-Federal hydroelectric facilities in the Columbia River Basin are responsible for implementing the FWP.

In the case of anadromous fish, the NWPA specifically recognized the need for "improved survival * * * at hydroelectric facilities" and the need for "flows of sufficient quality and quantity between such facilities to improve production, migration and survival."

There are two reasons why the NWPA has not achieved positive results for the survival of anadromous fish: (1) There is no mandate requiring compliance with the FWP—the NWPA only requires that measures be taken into account to the fullest extent practicable; and (2) the lack of specificity in program measures often leads to disagreements over interpretation of how measures are to be implemented. Below is a summary of some of the FWP's more important features.

(1) *Water budget.* Mortality of juvenile fish during their seaward migration is a major problem confronting upper Columbia River stocks, such as Snake River sockeye salmon. Flow is important because delays caused by the combination of flow regulation (storing high natural runoff in the spring and early summer to provide regulated releases for power generation in the fall and winter) and changes in river cross-

sectional area (from a free-flowing river to a series of impoundments) result in reduced survival. Passage at the dams is also a problem. Estimates of losses due to passage through turbines at these projects have ranged from 8 to 32 percent (Bell 1981; Long 1968). When the NWPPC solicited recommendations for provisions of the FWP, the fishery agencies and tribes recommended specific minimum and optimum flow levels for each month, with a sliding scale (which would provide additional water in years with better flows) for the critical juvenile fish migration period, April 15 through June 15. The NWPPC response to the agencies' recommendation was to include a "water budget" in the FWP.

The water budget is a specified volume of water to be managed by the fish and wildlife agencies and the tribes and released between April 15 and June 15 to aid the downstream migration of anadromous fish in the Columbia River. It consists of a Snake River component of 1.19 MAF (1.43 cubic kilometers) and a Columbia River component of 3.45 MAF (4.26 cubic kilometers). The greater volume of Columbia River water supplements the Snake River releases in providing flows in the mainstem Columbia River below the mouth of the Snake River. A water budget has been included in planning for Columbia River water management since 1984. The NWPPC did not address flows outside the April 15 to June 15 period, reasoning that flows from power generation during the rest of the year would be sufficient to provide for fish passage (NWPPC 1984).

While the water budget has been beneficial in improving fish passage and survival, its potential has not been achieved due to a number of problems in both design and implementation. Problems include inadequate amounts of water, the limitation to a 60-day period, the lack of a guaranteed firm base flow, changes by the implementing agencies of the NWPPC-established priorities for water use, and constraints imposed by the operators (such as the Corps of Engineers and the Idaho Power Company) on how water is released.

(i) *Inadequate amount of water.* The NWPPC purposely set the water budget for Lower Granite Dam in the Snake River lower than fishery agency and tribal recommendations for minimum flows due to concerns about the impact on reservoir refill (NWPPC 1984). Further, the amount of water specified in the water budget is not always provided. For example, the water budget provides for 1.19 MAF (1.43 cubic kilometers) in the Snake River, but the amount actually obtained has ranged from 0.44 to 0.48 MAF (0.52 to 0.59 cubic kilometers). This amount of water was fully used in 7 to 17 days in the years 1987 through 1990 and, even during the days of release, it did not provide sufficient flows for adequate fish passage (CBFWA 1990). Monitoring at Lower Granite Dam indicates that sockeye salmon migrate past this facility between early April and late June, spanning a period of 38 to 73 days (Fish Passage Center 1988; 1989; February 1990). However, the flow at Lower Granite Dam averaged only 77,000 to 88,000 cfs (2,180.4 to 2,491.9 cubic meters per second) during the period (7 to 17 days) of water budget use. This is well below the flow levels identified by the fishery agencies and tribes as needed for passage (CBFWA 1990).

The FWP also does not address the need for flows above the minimum. The fishery representatives had requested a sliding scale that would have made more water available for fish in those years when the annual runoff was greater. This approach was not made part of the water budget. An additional concern is that, in good water years, some of the water budget commitment is made up of increased runoff, and the amount of stored water available for the water budget is subsequently reduced. This results in a water budget that provides water equivalent only to that which would be required during a critically low-flow year.

(ii) *Limitation to a 60-day period.* The problem with limiting the water budget to a 60-day period is the resulting drop in flows during the subsequent period. Use of water for the water budget in the spring period creates a "hole" in reservoir storage that is then replaced by holding back flows when the water budget request is no longer in force. During these time periods there are still significant numbers of fish passing through the system that are adversely impacted by the low flows caused by water storage

(iii) *Lack of a guaranteed flow.* The FWP requires Federal project operators and regulators to "act in good faith" in implementing the water budget as a "firm" requirement to provide 1.19 MAF (1.43 cubic kilometers) at Lower Granite Dam. However, this requirement is subject to the limits of other firm non-power requirements, such as flood control and other authorized purposes of the facilities. In some cases, these criteria conflict with priorities in the FWP. An example of this occurred in 1989 when a water budget request involving Dworshak Reservoir in 1989 was modified by the Corps of Engineers (COE) based on their expressed policy of only providing flow in excess of 85,000 cfs (2,406.95 cubic meters per second) at Lower Granite Dam if it does not affect refill (Fish Passage Center 1990).

In summary, the water budget has the potential to be one of the most important tools available to move juvenile salmon and steelhead downstream past the dams in the Columbia and Snake Rivers. However, its value has been greatly diminished by decisions of the water operating agencies that must also consider the needs of other water users—particularly at those times when it is most critical to fish passage. It is clear that as currently implemented, the water budget is inadequate to prevent the decline of Snake River sockeye salmon stocks.

(2) *Juvenile fish bypass facilities.* The FWP also addresses juvenile fish mortalities associated with passage through hydroelectric turbines at the mainstem, requiring (1) the construction of new juvenile fish bypass facilities where none existed; (2) the improvement of existing facilities; and (3) interim fish passage through spill of water at projects without adequate juvenile fish bypass systems. These modifications have been scheduled, but not all schedules have been met. As a result, there are continuing losses of fish.

There are eight mainstem river hydroelectric dams, all operated by the COE, that juvenile Snake River sockeye salmon migrants must pass. Five of these projects have juvenile fish bypasses. Progress on bypass facility installation at the remaining three projects has been slow. Facilities that were to have been completed at Lower Monumental and Ice Harbor Dams in 1989 (NWPPC 1984) are now scheduled for completion in 1992 and 1993, respectively. At the Dalles Dam, the COE now estimates that facilities targeted for 1989 completion in the 1984 FWP will not be completed until 1998. Investigation and implementation of measures to improve the performance of existing systems is an ongoing process.

Passing water over spillways is generally used as an interim measure to protect juvenile downstream migrants until permanent bypass facilities are installed. Fish passing over spillways have substantially higher survival than those going through the turbines (Bell 1976; Heinle and Olson 1981). The proportion of fish passed in spill, however, is directly related to the volume of water spilled. Since spilled water is lost hydropower production, spill is resisted by the project operators as a passage option. When it is

provided, it generally targets only the peak periods of juvenile fish passage.

In 1988, the fishery agencies are tribes entered into a Fish Spill Memorandum of Agreement (MOA) with the Bonneville Power Administration (BPA) that addresses four COE projects where juvenile fish facilities are inadequate or lacking (Spill MOA, 1988, Reprinted in Fish Passage Center, 1989 Annual Report). The COE did not sign the MOA, but in 1989 and 1990 did operate the four projects in accordance with the agreement. The NWPPC adopted the MOA in the 1989 amendments to the FWP (NWPPC, Notice of Final Action on Spill Amendments No. 89–5, February 15, 1989). Spill provided under the MOA at four dams is expected to improve survival of downstream migrants.

(3) *Transportation.* Collecting fish at an upstream hydroelectric project and transporting them around lower dams and reservoirs for release back into the river are also used to reduce downstream migrant mortalities. Snake River fish are collected and transported from as many as three of the eight COE dams that they must pass. Research has shown that most stocks benefit from such transportation. The effectiveness of transportation is related to in river flow conditions and the transportation program is most effective when flows are low. There are no data specific to the benefits of transporting Snake River sockeye salmon. Limited studies of transport of Columbia River sockeye salmon were inconclusive because it was not possible to isolate and determine the significance of various factors that appeared to influence the results, such as the physiological state of fish when transported, the segment of the outmigration during which fish were collected, and differing responses between two Columbia River tributary stocks (Wenatchee River and Okanogan River).

(4) *Adult fish passage.* The FWP also requires the COE to implement adult fishway operating criteria at all COE's projects on the mainstem Columbia and Lower Snake Rivers. Until 1990, these criteria were included in project operations and maintenance plans and separate criteria were provided in a Detailed Fisheries Operating Plan developed by the fishery agencies and tribes. In a revision to the COE's Fish Passage Development and Evaluation Program (see April 19, 1990 letter from Brigadier General Pat M. Stevens, IV), there was agreement on a process for developing a comprehensive, jointly-approved operating plan for both adult and juvenile facilities, but as of this time, a final plan has not been endorsed by all parties.

Beyond agreement on the definition of operating criteria, there is also a question of implementation. As indicated under causes of decline, there have been problems in recent years in keeping facilities in conformance with established criteria. The FWP has not resolved all of the identified adult fish passage problems at Columbia River hydropower facilities.

(5) *Integrated system plan.* In 1987, the NWPPC established "doubling runs as a reasonable interim goal." Under the FWP, planning for enhancement activities to meet this goal is to be based on individual subbasin plans, and an Integrated System Plan to provide a systemwide framework. The plan includes numerous enhancement measures that could be implemented to increase runs. It also states that "improving mainstem migrant survival is the most important strategy, and has the highest priority," and that without these improvements "actions proposed in many of the upriver subbasins will not be successful in increasing the productivity of anadromous fishes."

In summary, there has been some progress on factors contributing to the decline of sockeye salmon under the NWPA and there is potential for even greater improvement. However, the NWPA does not give a priority to salmon and steelhead or provide any regulatory authority to ensure compliance with decisions of the NWPPC. Consequently, despite efforts to date under the NWPA, Snake River sockeye salmon stocks have continued to decline.

5. Other Natural and Manmade Factors

(a) *Natural factors.* Natural factors of greatest concern to Snake River sockeye salmon are periodic droughts and the oceanographic phenomenon known as El Niño. No known landslides causing excessive sedimentation, naturally recurring barriers to salmon migration, or any other impacts to sockeye production have occurred in the Salmon River Basin (personal communication; John Lloyd, Fish Biologist, Sawtooth National Forest).

(1) *Droughts.* Low water conditions are not as critical for Redfish Lake sockeye spawning and rearing as they are for other species of salmon, since these sockeye spawn and rear in a lake. However, increased periods of slack water further delay downstream juvenile migrants during drought years. Also, low flows may preclude fish from moving through the dams, particularly those with collection and transport systems. Since agricultural diversions tend to take a fixed amount of water, their impact is more severe during drought years than in other years and adult and juvenile migration are subsequently further impacted.

In the Northwest, annual mean streamflows for the 1977 water year (October–September) were the lowest recorded for many streams since the late nineteenth century (Columbia River Water Management Group 1978). Since 1977, precipitation levels in the Snake River Basin above Ice Harbor Dam were below the 25-year average (1961–1985) in the 1979, 1981, 1985, 1987, 1988, and 1990 water years. The 1990 water year became a fourth consecutive year of drought conditions (Columbia River Water Management Group (in press)).

(2) *El Niño.* El Niño ocean conditions are characterized by anomalously warm sea surface temperatures, vertical thermal structure, coastal currents and upwelling. Principal ecosystem alterations are decreased in primary and secondary productivity and changes in distributions of prey and predator species. The three most conspicuous El Niño events of recent decades were those of 1940, to 1941, 1957 to 1958, and 1982 to 1983 (Cannon *et al.* 1985).

The timing and return migration route of mature sockeye salmon may be influenced by major El Niños that affect large eddies in the northeast Pacific Ocean and the distribution of fish and ocean catches (Mysak 1985). There is no direct evidence that the El Niño events have had an adverse impact on sockeye salmon survival in the ocean.

(b) *Manmade factors.* There is no direct evidence that artificially propagated fish have compromised the genetic integrity of Stanley Basin sockeye salmon. Supplementation of kokanee occurred sporadically beginning early in this century. In most cases, the origin of the donor stocks is unknown (Bower, 1990). Preliminary electrophoretic analyses of 19 different sockeye salmon and kokanee samples from Idaho, Washington, and British Columbia (these include the most likely sources for donor stocks for artificially reared smolts) indicated that the Redfish and Alturas Lake kokanee populations are genetically different from the other populations sampled. Sockeye salmon from Redfish Lake were unavailable for sampling. Artificial production of other species may have an adverse impact on sockeye salmon as they jointly migrate through the rivers, estuary and ocean, and may compete with sockeye for food.

Proposed Determination

Based on its assessment of the best scientific and commercial information

available, NMFS is issuing a proposed determination that the Snake River sockeye salmon (*Oncorhynchus nerka*) is a "species" under the ESA. Furthermore, NMFS proposes to list the Snake River sockeye salmon as endangered under the ESA. Although NMFS determined that an emergency rule is not warranted at this time, NMFS will reconsider if available information indicates that there is an emergency situation posing a significant risk to the Snake River sockeye salmon.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, prohibitions on taking, recovery actions, and Federal agency consultation requirements. Recognition through listing promotes conservation actions by Federal and state agencies and private groups and individuals.

Section 7(a)(4) of the ESA requires that Federal agencies confer with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions resulting in destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with NMFS.

Examples of Federal actions that may be affected by this proposal include authorized purposes of mainstem Columbia River and Snake River hydroelectric and storage projects. Such authorized purposes include hydroelectric power generation, flood control, irrigation, and navigation. Federal actions including COE section 404 permitting activities under the Clean Water Act, COE section 10 permitting activities under the Rivers and Harbors Act, and Federal Energy Regulatory Commission licenses for non-Federal development and operation of hydropower may also be affected.

Based on discussions in this notice, general conservation measures that could be implemented to help conserve the species include the following:

(1) Adult sockeye returning to the Snake River (Redfish Lake) could be trapped and held for spawning. The progeny would be used to rebuild the sockeye population.

(2) Efforts could be made to ensure that adult passage facilities at dams effectively pass migrating salmon upstream.

(3) Flows in the Snake and Columbia Rivers could be regulated to pass downstream migrating fish effectively through the system. It is recognized that coordination of hydropower production in the Northwest is a long-range effort, and major changes in planned river operation cannot be made on short notice. However, NMFS believes that the parties responsible for flow regulation have sufficient authority and flexibility on a short-term basis to improve passage conditions for sockeye through modification of flow. NMFS will work closely with those parties to monitor water flows during the time the sockeye salmon are in the system.

(4) The catch of sockeye salmon in all Columbia River non-tribal and tribal fisheries could be eliminated. The Oregon Department of Fish and Wildlife and the Washington Department of Fisheries have predicted that returning runs of sockeye salmon in the Columbia River in 1991 will be too low to authorize non-Indian or Indian fisheries. However, under the Columbia River Management Plan, treaty Indian dipnetting remains open and ceremonial and subsistence gillnet fisheries may occur, regardless of sockeye run size.

(5) All water diversions available to downstream migrating juvenile sockeye salmon could be screened. Sockeye salmon juveniles migrate downstream from late April through May. Many unscreened diversions have been identified, and a thorough review of the impact of unscreened diversions on sockeye salmon will be evaluated.

(6) Predators and competitor species in the Stanley Basin lakes could be controlled.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. To avoid delaying this listing proposal, NMFS will propose critical habitat in a separate rulemaking.

Public Comments Solicited

To ensure that the final action resulting from this proposal will be as accurate and as effective as possible, NMFS is soliciting comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, and any other interested parties. Three public hearings have been scheduled (see **DATES** and **ADDRESSES**). The final decision on this proposal is due by April 1992 and will take into consideration the comments and any additional information received by NMFS, and such communications may lead to a final action that differs from this proposal.

Classification

The 1982 amendments to the ESA (Pub. L. 97–304) in section 4(b)(1)(A), restricted the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 657 F.2d 829 (6th Cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413, February 6, 1984).

The conference Report on the 1982 amendments to the ESA notes that economic considerations have no relevance to determinations regarding the status of species, and that E.O. 12291 economic analysis requirements, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of E.O. 12612.

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List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened wildlife, Exports, Fish, Import, Marine mammals, Reporting and recordkeeping requirements, Transportation.

Dated: April 1, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

For the reasons set out in the preamble, 50 CFR part 222 is proposed to be amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation of part 222 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

§ 222.23 [Amended]

2. In § 222.23, paragraph (a) is amended by adding the phrase "Snake River sockeye salmon (*Oncorhynchus nerka*);" immediately after the phrase "Totoaba (*Cynoscian macdonaldi*);" in the second sentence.

[FR Doc. 91–8017 Filed 4–2–91; 2:28 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 56, No. 66
Friday, April 5, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1991-Crop Peanuts; National Poundage Quota

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination.

SUMMARY: This notice affirms the determination of the national poundage quota for the 1991 crop of quota peanuts. On December 14, 1990, the Secretary of Agriculture announced that the national poundage quota for the 1991–92 marketing year would be 1,550,000 short tons (st), 10,000 st less than last year's quota. That determination was made pursuant to the statutory requirements of the Agricultural Adjustment Act of 1938, as amended by the Food, Agriculture, Conservation and Trade Act of 1990.

EFFECTIVE DATE: December 14, 1990.

FOR FURTHER INFORMATION CONTACT: Ronald W. Holling, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, room 3741-South Building, USDA, P.O. Box 2415, Washington, DC, 20013, telephone 202–447–7477. The final regulatory impact analysis describing the impact of implementing this determination will be available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major". The matter under consideration will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individuals, industries, Federal, State or local governments or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and number of the Federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order No. 12372 relating to intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this notice because ASCS is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this determination. •

Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (the 1938 Act) as amended by the Food, Agriculture, Conservation and Trade Act of 1990, requires that the national poundage quota for peanuts for each of the 1991 through 1995 marketing years be established by the Secretary at a level that is equal to the quantity of peanuts in tons that the Secretary estimates will be devoted in each such marketing year to domestic edible, seed, and related uses. Section 358–1(a)(1) further provides that the national poundage quota for any such marketing year shall not be less than 1,350,000 st. The marketing year for the 1991 crop of peanuts will run from August 1, 1991, through July 31, 1992. Poundage quotas for the 1991–95 marketing years were adopted by a producer referendum held on December 10–13, 1990, under the provisions contained at section 358–1(d)(1) of the 1938 Act.

The national poundage quota for the marketing year for the 1991 crop was established to be 1,550,000 st based on the following data:

ESTIMATED DOMESTIC EDIBLE, SEED AND RELATED USES FOR 1991-CROP PEANUTS

Item	Short tons
Domestic Edible:	
Domestic Food	1,160,000
On farm and local sales	20,000
Subtotal	1,180,000
Seed	123,000
Related Uses:	
Crushing residual	180,000
Shrinkage and other losses	46,000
Segregation 2 and 3 loan transfers to quota loan	20,000
Quota product exports	1,000
Subtotal	247,000
Total	1,550,000

The estimate of 1991 domestic food use was developed in three steps. First, since the 1990 peanut crop was significantly impacted by drought, an abnormally tight peanut supply, and little to no expected growth in domestic food use, the 1991–92 domestic food use was estimated by projecting a 4 percent increase over the 1989 marketing year domestic food use reported in Oil Crops Situation and Outlook, Economic Research Service (ERS), to produce a trend figure of 1,202,000 st. Second, to account for peanut butter exports, the trend figure was reduced by 14,000 st. Although ERS food use figures include product exports, such exports in most instances are either made from, or may otherwise be credited under section 359a(e)(1) of the 1938 Act as being made from, additional peanuts. Third, the trend figure for 1991 domestic food use was further reduced by 28,000 st to reflect an expectation of reduced peanut butter purchases under Federal domestic food programs. The latter reduction reflects a projected return to pre-1989 levels of Federal peanut butter purchases.

The estimate for farm use and local sales was derived by taking the difference between producer certified 1989-crop marketings and 1989-crop inspections. This data was derived from Agricultural Stabilization and Conservation Service and Federal-State Inspection Service reports.

The seed estimate is based on the expected 1992-crop planted acreage for peanuts and the farmer stock equivalent of the seed needed to plant such acreage.

The crushing residual represents the farmer stock equivalent weight of crushing grade kernels shelled from quota peanuts. In any given load of quota farmer stock peanuts a portion of such peanuts is only suitable for the crushing market. The quota must be sufficient to provide for the shelling of both edible and crushing grades. The crushing residual identified above was, as in prior years, derived based on information from the industry on the assumption that crushing peanuts will be approximately 14 percent, on a farmer stock basis, of the total 1991 domestic food and seed production.

The allowance for shrinkage and other losses is not an estimate of an overall reduction in value of peanuts over the course of the marketing year but is an estimate of reduced kernel weight available for marketing as well as for kernel losses due to damage, fire, and spillage. These losses were estimated by multiplying a factor of 0.04 times domestic food use. The utilized factor is an ASCS estimate. Excess moisture and foreign material is delivered farmer stock peanuts were not considered since such factors are accounted for at buying points and do not impact upon quota marketing tonnage.

Segregation 2 and 3 transfers represents peanuts that would otherwise be eligible for use as quota peanuts but which will not qualify for such use due to quality problems. Such transfers to quota peanut price support loan pools occur when quota peanut producers due to no fault of their own would otherwise have insufficient Segregation 1 peanuts to fulfill their quota. In such instances, Segregation 2 and 3 peanuts placed under an additional peanut price support loan may be transferred to the quota price support loan.

Net export of peanut products to Canada and Mexico were included in the calculation as such products cannot, under customary regulatory provisions be produced from additional peanuts. For that reason such products have been required to be made from quota peanuts.

Determination

Accordingly, the national poundage quota for 1991-crop peanuts is 1,550,000 st.

Authority: Section 358–1 of the Agricultural Adjustment Act of 1938 as added by the Food, Agriculture, Conservation and Trade Act of 1990.

Signed at Washington, DC on March 26, 1991.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 91–8026 Filed 4–4–91; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Intermountain Region, Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Intermountain Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217. This action is necessary to implement the Secretary of Agriculture's rule published in the **Federal Register** on February 6, 1991. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after April 8, 1991. The list of newspapers will remain in effect until October 1991 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: K. Dale Torgerson, Regional Appeals and Litigation Manager, Intermountain Region, 324 25th Street, Ogden, UT 84401, phone (801) 625–5279.

SUPPLEMENTARY INFORMATION: The administrative appeal procedures, 36 CFR part 217, of the Forest Service require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: The decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

For decisions made by the Regional Forester affecting National Forests in Idaho:

The Idaho Statesman, Boise, Idaho.

For decisions made by the Regional Forester affecting National Forests in Nevada:

The Reno Gazette-Journal, Reno, Nevada.

For decisions made by the Regional Forester affecting National Forests in Wyoming:

Casper Star-Tribune, Casper, Wyoming.

For decisions made by the Regional Forester affecting National Forests in Utah:

Standard-Examiner, Ogden, Utah.

If the decision made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in:

Standard-Examiner, Ogden, Utah.

Ashley National Forest

Ashley Forest Supervisor decisions:

Vernal Express, Vernal, Utah.

Vernal District Ranger decisions:

Vernal Express, Vernal, Utah.

Flaming Gorge District Ranger for decisions affecting Wyoming:

Casper Star Tribune, Casper, Wyoming.

Flaming Gorge District Ranger for decisions affecting Utah:

Vernal Express, Vernal, Utah.

Roosevelt and Duchesne District Ranger decisions:

Uintah Basin Standard, Roosevelt, Utah.

Boise National Forest

Boise Forest Supervisor decisions:

The Idaho Statesman, Boise, Idaho.

Mountain Home District Ranger decisions:

Mountain Home News, Mountain Home, Idaho.

Boise District Ranger decisions:

The Idaho Statesman, Boise, Idaho.

Idaho City District Ranger decisions

The Idaho City World, Idaho City, Idaho.

Cascade District Ranger decisions:

The Advocate, Cascade, Idaho.

Lowman District Ranger decisions:

The Idaho City World, Idaho City, Idaho.

Emmett District Ranger decisions:
The Messenger-Index, Emmett, Idaho.

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor decisions:
Casper Star-Tribune, Casper, Wyoming.
Jackson District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming.
Buffalo District Ranger decisions:
Casper Star-Tribune, Jackson, Wyoming.
Big Piney District Ranger decisions:
Casper Star-Tribune, Jackson, Wyoming.
Pinedale District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming.
Greys River District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming.
Kemmerer District Ranger decisions:
Casper Star-Tribune, Casper, Wyoming.

Caribou National Forest

Caribou Forest Supervisor decisions:
Idaho State Journal, Pocatello, Idaho.
Soda Springs District Ranger decisions:
Idaho State Journal, Pocatello, Idaho.
Montpelier District Ranger decisions:
Idaho State Journal, Pocatello, Idaho.
Malad District Ranger decisions:
Idaho State Journal, Pocatello, Idaho.
Pocatello District Ranger decisions:
Idaho State Journal, Pocatello, Idaho.

Challis National Forest

Challis Forest Supervisor decisions:
The Challis Messenger, Challis, Idaho.
Middle Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho.
Challis District Ranger decisions:
The Challis Messenger, Challis, Idaho.
Yankee Fork District Ranger decisions:
The Challis Messenger, Challis, Idaho.
Lost River District Ranger decisions:
The Challis Messenger, Challis, Idaho.

Dixie National Forest

Dixie Forest Supervisor decisions:
The Daily Spectrum, St. George, Utah.
Pine Valley District Ranger decisions:
The Daily Spectrum, St. George, Utah.
Cedar City District Ranger decisions:
The Daily Spectrum, St. George, Utah.
Powell District Ranger decisions:
The Daily Spectrum, St. George, Utah.
Escalante District Ranger decisions:
The Daily Spectrum, St. George, Utah.
Teasdale District Ranger decisions:
The Daily Spectrum, St. George, Utah.

Fishlake National Forest

Fishlake Forest Supervisor decisions:
Richfield Reaper, Richfield, Utah.
Loa District Ranger decisions:
Richfield Reaper, Richfield, Utah.
Richfield District Ranger decisions:
Richfield Reaper, Richfield, Utah.
Beaver District Ranger decisions:
Beaver Press, Beaver, Utah.
Fillmore District Ranger decisions:
Millard County Chronicle-Progress, Fillmore, Utah.

Humboldt National Forest

Humboldt Forest Supervisor decisions:
Elko Daily Free Press, Elko, Nevada.
Mountain City District Ranger decisions:
Elko Daily Free Press, Elko, Nevada.
Jarbidge and Ruby Mountain District Ranger decisions:
Elko Daily Free Press, Elko, Nevada.
Ely District Ranger decisions:
Ely Daily Times, Ely, Nevada.
Santa Rosa District Ranger decisions:
Humboldt Sun, Winnemucca, Nevada.
Jarbidge District Ranger decisions:
Twin Falls Times News, Twin Falls, Idaho.

Manti-Lasal National Forest

Manti-Lasal Forest Supervisor decisions:
Sun Advocate, Price, Utah.
Sanpete District Ranger decisions:
Mr. Pleasant Pyramid, Mt. Pleasant, Utah.
Ferron District Ranger decisions:
Emery County Progress, Castle Dale, Utah.
Price District Ranger decisions:
Sun Advocate, Price, Utah.
Moab District Ranger decisions:
The Times Independent, Moab, Utah.
Monticello District Ranger decisions:
The San Juan Record, Monticello, Utah.

Payette National Forest

Payette Forest Supervisor decisions:
Idaho Statement, Boise, Idaho.
Weiser District Ranger decisions:
Signal American, Weiser, Idaho.
Council District Ranger decisions:
Council Record, Council, Idaho.
New Meadows, McCall, and Krassel District Ranger decisions:
Star News, McCall, Idaho.

Salmon National Forest

Salmon Forest Supervisor decisions:
The Recorder-Herald, Salmon, Idaho.
Cobalt District Ranger decisions:
The Recorder-Herald, Salmon, Idaho.
North Fork District Ranger decisions:
The Recorder-Herald, Salmon, Idaho.
Leadore District Ranger decisions:
The Recorder-Herald, Salmon, Idaho.
Salmon District Ranger decisions:
The Recorder-Herald, Salmon, Idaho.

Sawtooth National Forest

Sawtooth Forest Supervisor decisions:
The Times News, Twin Falls, Idaho.
Burley District Ranger decisions:
South Idaho Press, Burley, Idaho
Twin Falls District Ranger decisions:
The Times News, Twin Falls, Idaho.
Ketchum District Ranger decisions:
Wood River Journal, Hailey, Idaho.
Sawtooth National Recreation Area:
Challis Messenger, Challis, Idaho.
Fairfield District Ranger decisions:
The Times News, Twin Falls, Idaho.

Targhee National Forest

Targhee Forest Supervisor decisions:
The Post Register, Idaho Falls, Idaho.
Dubois District Ranger decisions:
The Post Register, Idaho Falls, Idaho.
Island Park District Ranger decisions:
The Post Register, Idaho Falls, Idaho.
Ashton District Ranger decisions:
The Post Register, Idaho Falls, Idaho.
Palisades District Ranger decisions:
The Post Register, Idaho Falls, Idaho.
Teton Basin District Ranger decisions:
The Post Register, Idaho Falls, Idaho.

Toiyabe National Forest

Toiyabe Forest Supervisor decisions:
Reno Gazette-Journal, Reno, Nevada.
Carson District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada.
Austin District Ranger decisions:
Reno Gazette-Journal, Reno, Nevada.
Bridgeport District Ranger decisions:
Mono County Review, Bridgeport, California.
Tonopah District Ranger decisions:
Tonopah Times/Bonanza, Tonopah, Nevada.
Las Vegas District Ranger decisions:
Las Vegas Review Journal, Las Vegas, Nevada.

Uinta National Forest

Uinta Forest Supervisor decisions:
The Daily Herald, Provo, Utah.
Pleasant Grove District Ranger decisions:
The Daily Herald, Provo, Utah.
Heber District Ranger decisions:
The Daily Herald, Provo, Utah.
Spanish Fork District Ranger decisions:
The Daily Herald, Provo, Utah.

Wasatch-Cache National Forest

Wasatch-Cache Forest Supervisor decisions:
Salt Lake Tribune, Salt Lake City, Utah.

Salt Lake District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah.
Kamas District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah.
Evanston District Ranger decisions:
Salt Lake Tribune, Salt Lake City, Utah.
Mountain View District Ranger decisions:
Bridger Valley Pioneer, Mt. View, Wyoming.
Ogden District Ranger decisions:
Ogden Standard Examiner, Ogden, Utah.
Logan District Ranger decisions:
Logan Herald Journal, Logan, Utah.
Dated: March 29, 1991.

Robert C. Joslin,

Deputy Regional Forester.

[FR Doc. 91-8015 Filed 4-4-91; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Doyle Creek Watershed, KS

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Doyle Creek Watershed, Harvey and Marion Counties, Kansas.

FOR FURTHER INFORMATION CONTACT: James N. Habiger, State Conservationist, Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, telephone 913-823-4565.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause local, regional, or national impacts on the environment. As a result of these findings, James N. Habiger, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

Water quality is impaired by suspended solids, phosphorus, fecal bacteria, and organic waste. Fish and Wildlife assessments have been made at several potential floodwater retarding dam sites. Habitat losses have been identified as well as alternative mitigation measures. Formal consultation is under way for the Neosho madtom, an endangered species, which may be affected by project action.

The project concerns a plan for flood prevention and water quality improvement. Alternatives under consideration to reach these objectives include systems for conservation land treatment, structural measures, and non-structural measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special experitise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. As a part of preparing this impact statement, scoping notices have been provided to state and federal agencies for comment. This scoping process provided a basis for identifying issues to be addressed and for determining the degree of significance of the issues.

The Soil Conservation Service invites the participation and consultation of those interested in the scoping and preparation of the draft impact statement. Further information on the proposed actions or preparation of the impact statement may be obtained from James N. Habiger, State Conservationist, at the above address or telephone 913-823-4565

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to provisions of Executive Order 12372 which requries intergovernmental consultation with State and local officials)

Dated: March 28, 1991.

James N. Habiger,

State Conservationist.

[FR Doc. 91-7966 Filed 4-4-91; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Annual Trade Survey
Form Number(s): B-450, 451
Agency Approval Number: 0607-0195
Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
Burden: 1,760 hours
Number of Respondents: 4,800
Avg Hours Per Response: 22 minutes
Needs and Uses: The Bureau of the Census uses the Annual Trade Survey to collect annual sales, purchases, year-end inventory, inventory valuation methods, legal form of organization, cost of goods sold, and gross margin data from a sample of wholesalers who are contained in the Bureau's Standard Statistical Establishment List. We tabulate the annual wholesale trade data to benchmark data from our Monthly Wholesale Trade Survey (OMB number 0607-0190). The Bureau of Economic Analysis incorporates the wholesale trade data in its calculations of the Gross National Product. Other government agencies and businesses use the published estimates to gauge the current trends of the economy.
Affected Public: Businesses or other for-profit organizations
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 2 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-7998 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-07-F

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S. chapter 35).

Agency: Bureau of Economic Analysis.
Title: Public Assistance Payments by County.
Form Number: Agency-NA; OMB—0608-0037.
Type of Request: Renewal of currently approved collection.

Burden: 24 Respondents; 144 reporting hours.

Average Hours Per Response: 6 Hours.

Needs and Uses: The Bureau of Economic Analysis prepares county estimates of personal income. To produce county estimates of public assistance payments, which are a part of personal income, it is necessary to request data directly from the responsible State agencies. The data which are compiled by the States for their own administrative purposes are only available from the State administering the programs.

Affected Public: State Government agencies.

Frequency Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Marshall Mills (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room H5327, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 2, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91–8051 Filed 4–4–91; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of Export Administration

[Docket No. 910371–1071]

Foreign Availability Determination; Fiber Optic Buffering, Stranding and Jacketing Equipment

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: On September 27, 1990, under the authority of the Export Administration Act of 1979, as amended (EAA), the Deputy Assistant Secretary for Export Administration determined that foreign availability of fiber optic buffering, stranding and jacketing equipment, controlled under ECCN 1353A(b) of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1), exists to controlled countries.

FOR FURTHER INFORMATION CONTACT: Steven C. Goldman, Director, Office of Foreign Availability, room SB–097, Department of Commerce, Washington, DC 20230; Telephone: (202) 377–8074.

SUPPLEMENTARY INFORMATION:

Background

Although the Export Administration Act (EAA) expired on September 30, 1990, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the Export Administration Regulations (EAR) in Executive Order 12730 of September 30, 1990.

Part 791 of the Export Administration Regulations (EAR) (15 CFR part 730 et seq.) sets forth the procedures and criteria for determining the foreign availability of goods and technology whose export is controlled for national security purposes. The Secretary of Commerce or his designee determines whether foreign availability exists.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to affected countries if the Secretary or his designee determines that items of comparable quality are available in fact to such countries from a foreign source in quantities sufficient to render the controls ineffective in achieving their purpose.

The Department of Commerce undertook a foreign availability assessment of fiber optic buffering, stranding and jacketing equipment on its own initiative. This equipment is controlled under ECCN 1353A(b) of the CCL. OFA provided its asssessment and recommendation to the Deputy Assistant Secretary for Export Administration. The Deputy Assistant Secretary considered the assessment and other relevant information and determined that foreign availability to controlled countries exists within the meaning of Section 5 of the EAA for fiber optic buffering, stranding and jacketing equipment. The Department provided all interested government agencies, including the Departments of State and Defense, the opportunity to review and comment on the assessment and determination.

The Coordinating Committee for Multilateral Export Controls (COCOM) agreed in June 1990 to decontrol fiber optic buffering, stranding and jacketing equipment. The Department has effected this decontrol by removing the words "or optical cable" from ECCN 1353A(b) of the CCL. The Department published this amendment in the **Federal Register** on June 29, 1990 (55 FR 26664), and the regulatory change became effective on July 1, 1990.

Dated: April 1, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91–8052 Filed 4–4–91; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–588–005]

Preliminary Results of Antidumping Duty Administrative Review: High Power Microwave Amplifiers and Components Thereof From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In response to a request by petitioner, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on high power microwave amplifiers and components thereof from Japan. This review covers NEC Corporation (NEC), a manufacturer and/or exporter of this merchandise to the United States, and the period July 1, 1989, through June 30, 1990. We have preliminarily determined that there were no shipments during the review period.

We invite interested parties to comment on these preliminary results. If this review proceeds as expected, we will issue final results on or before June 1, 1991.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Carole A. Showers, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–2815 or 377–3217, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On July 20, 1982, the Department published in the **Federal Register** (47 FR 31413) an antidumping duty order on high power microwave amplifiers and components thereof from Japan. On July 27, 1990, petitioner requested that the Department conduct an administrative review for the period July 1, 1989, through June 30, 1990, in accordance with 19 CFR 353.22(a). We published a notice of initiation of this antidumping duty administrative review on August

22, 1990 (55 FR 34307). In our initiation notice, we erroneously stated that MCL, Inc., was the company under review. MCL, Inc., is the petitioner in this proceeding. The company under review is the NEC Corporation.

On October 22, 1990, we issued a questionnaire to NEC. On November 5, 1990, NEC responded to the questionnaire, indicating that it had made no shipments of the subject merchandise for export to the United States during the review period.

The Department is conducting this antidumping duty administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of Review

The products covered by this review are high power microwave amplifiers and components thereof. High power microwave amplifiers are radio-frequency power amplifier assemblies, and components thereof, specifically designed for uplink transmission in C, X, and Ku bands from fixed earth stations to communications satellites and having a power output of one kilowatt or more. High power microwave amplifiers may be imported in subassembly form, as complete amplifiers, or as a component of higher level assemblies (generally earth stations). This merchandise is currently classifiable under item 8525.10.80 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that for the period July 1, 1989, through June 30, 1990, there were no shipments during the review period. In the most recently reviewed period in which shipments did occur, the 1983/84 period, no dumping margins were found. See, High Power Microwave Amplifiers and Components Thereof from Japan: Final Results of Antidumping Duty Administrative Review (51 FR 43402, December 2, 1986). Accordingly, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in section 751(a)(1) of the Tariff Act, on future shipments of Japanese high power microwave amplifiers and components thereof, entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Public Comment

In accordance with 19 CFR 353.38, we will hold a public hearing, if requested, at 10 a.m. on May 13, 1991, at the U.S. Department of Commerce, room 3708, to afford interested parties an opportunity to comment on these preliminary results. Interested parties who wish to request a hearing must submit a written request within ten days of the date of publication of this notice in the Federal Register to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, ten copies of the business proprietary version and five copies of the non-proprietary version of case briefs must be submitted to the Assistant Secretary no later than April 26, 1991. Ten copies of the business-proprietary version and five copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary not later than May 6, 1991. At the hearing, an interested party may make a presentation only on arguments included in that party's briefs. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 353.38 and will be considered if submitted within the time limits specified in this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Act and 19 CFR 353.22(c)(5).

Dated: March 28, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-7987 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-087]

Portable Electric Typewriters From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 3, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on portable electric typewriters from Japan. The review covers 5 manufacturers/ exporters of this merchandise to the United States and the periods May 1, 1986 through April 30, 1987, and May 1, 1987 through April 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results. At the request of the petitioner and two respondents, we held a hearing on February 19, 1991.

Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the final results from those in the preliminary results of review. The final margins range from 0.35 percent to 88.85 percent.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Tom Prosser or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 1991, the Department of Commerce (the Department) published in the Federal Register (56 FR 246) the preliminary results of its administrative review of the antidumping duty order on portable electric typewriters (PETs) from Japan (45 FR 30618, May 9, 1980). We have now completed this administrative review, in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of non-automatic PETs from Japan that do not incorporate a calculating mechanism. The merchandise is currently classified under Harmonized Tariff System (HTS) item numbers 8469.21.00 and 8469.29.00. During the review period, this merchandise was classifiable under Tariff Schedules of the United States Annotated (TSUSA) item 676.0510 and, in some cases, under TSUSA item 676.0540. HTS and TSUSA numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers 5 manufacturers/ exporters of Japanese PETs to the United States, Brother Industries, Ltd. (Brother), Canon, Inc. (Canon), Matsushita Electric Industrial Co. (Matsushita), Nakajima All Co., Ltd. (Nakajima), and Silver Seiko, Ltd. (Silver), and the periods May 1, 1986 through April 30, 1987, and May 1, 1987 through April 30, 1988. Canon's preliminary results for the May 1987-April 1988 review period were inadvertently excluded from the

preliminary results published January 3, 1991 (56 FR 246). As a result, the Department will publish separate preliminary and final results for Canon for the May 1987–April 1988 period.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. At the request of the petitioner, Smith Corona Corp. (SCM), and two respondents, Brother and Canon, we held a public hearing on February 19, 1991. We received comments from SCM and all respondents except Matsushita.

In these final results we have corrected the following computer programming errors: Miscalculation of Canon's third-country weighted-average indirect selling expenses; miscalculation of the exporter's sales prices (ESP) offset cap for Canon's sales of model S–55; inclusion of negative invoices in Canon's third-country sales calculation; and mischaracterization of one of Silver's automatic models as non-automatic. In addition, certain comments from petitioner and respondents concerned mathematical or clerical errors. We have corrected the following such errors for these final results: use of incorrect sale dates for Brother's purchase price sales; treatment of Brother's reported commission amounts as percentages; incorrect entry of two numbers used in our calculation of Brother's deduction for Olympic advertising; incorrect entry of the interest rate used to calculate Brother's inventory carrying costs in the United States; inadvertent failure to make corrections to Nakajima's royalty payments discovered at verification; and incorrect entry of group numbers of Nakajima's U.S. and third-country models.

Petitioner Comments

Comment 1: SCM argues that the Department's final results should include automatic PETs and PETs with a calculating mechanism (automatic/calculating PETs). SCM believes the Department should require each respondent to submit home market and U.S. sales data for their automatic/calculating PETs that fall within the scope of the antidumping duty order. SCM contends that the function of an annual review is not only to establish the assessment rate for liquidation of entries, but also to establish estimated duty deposit rates for future entries. SCM further states that those deposit rates will be inaccurate if they are not based on sales data of all PETs subject to the order, including automatic/calculating PETs.

SCM believes inclusion of these typewriters is particularly important in the case of Matsushita, which had shipments of automatic machines only, and Nakajima, which, pursuant to the preliminary results of this review, would post no estimated duties.

Brother and Nakajima argue that the Department has no obligation or authority to review automatic/calculating PETs entered, or withdrawn from warehouse, for consumption prior to February 3, 1989, because these machines were not subject to the antidumping duty order until they were suspended from liquidation effective February 3, 1989. Nakajima asserts that the antidumping duty deposit rate must be based on data for entries subject to the order. Brother adds that it would be meaningless to review such entries because they have been liquidated and because Brother no longer exports typewriters to the United States.

Matsushita also claims that its entries of automatic/calculating PETs have been liquidated, and it contends that SCM provides no evidence to suggest that the dumping margins would be materially different if automatic/calculating PETs were included in this review.

Department's position: We disagree with SCM. The Court of International Trade (CIT) did not rule that automatic/calculating PETs are within the scope of the antidumping duty order until February 3, 1989. See *Smith Corona Corp.* v. *United States*, 706 F. Supp. 908; (1989 CIT) *aff'd.* 915 F.2d 683 (CAFC 1990). Entries of automatic/calculating PETs during this review period were made prior to the CIT's decision and are governed by the Department's scope determination made in Portable Electric Typewriters from Japan; Final Results of Antidumping Duty Administrative Review, 52 FR 1502 (January 14, 1987) (81–82 PETs Final).

The only purpose of reviewing such entries would be to establish estimates antidumping duty deposit rates for future entries. It is our standard practice not to review liquidated entries; moreover, to incorporate automatic/calculating PETs into these proceedings would cause a significant delay in the completion of these reviews. The Department currently does not have the relevant information, and the data for these sales would need to be gathered and analyzed. The Department will determine the disposition of entries of automatic/calculating PETs made subsequent to February 3, 1989, the date of the CIT decision, in the context of future administrative reviews.

Comment 2: SCM argues that the Department should not permit an adjustment to foreign market value (FMV) for inventory carrying costs incurred with respect to sales in the home market. SCM asserts that home market inventory holding expenses are included within other indirect selling expenses incurred by the foreign manufacturer in the home market. To impute such an expense in the home market results in a double-counting of the deduction. SCM cites *Daewoo Electronics Co., Ltd.* v. *United States*, 13 CIT ____, 712 F.Supp. 931 (1989) (*Daewoo*) in support of its argument.

In response to SCM's comment, Silver states that even if certain expenses are double-counted by reason of deducting imputed inventory carrying costs from home market sales, the same problem exists for U.S. sales. That is, in the U.S. sales listing, Silver reported actual expenses incurred to finance its inventory which were deducted from ESP, but then the Department also deducted inventory carrying costs. Brother maintains that the Department should follow its current practice of adjusting both FMV and ESP sales for inventory carrying costs. Brother argues that *Daewoo* affirmed a 1984 determination made by the Department in Color Televisions Receivers from Korea; Final Results of Antidumping Duty Administrative Review, 49 FR 50420, 50427 (December 28, 1984) which has since been superseded.

Department's position: We agree with Brother that the Department should follow its current practice of adjusting both FMV and ESP sales to account for inventory carrying costs. See Final Determination of Sales at Less than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, (AFBs from Germany) 54 FR 18992 (May 3, 1989); Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review, 54 FR 13917, April 6, 1989) (Television Receivers from Japan); Portable Electric Typewriters from Japan; Final Results of Antidumping Duty Administrative Review 53 FR 40937 (October 19, 1988) (82–86 PETs Final). Because the seller incurs the cost of holding inventory in both markets, and because we adjust for that cost in the U.S. market, we must also adjust for the same cost in the home market. Fairness requires that when the inventory carrying cost adjustment is made to ESP, it must also be made to FMV. See AFBs from Germany, 19050. While the Daewood decision affirmed a 1984 determination

not to allow inventory carrying costs in the home market, the Department's current practice is to make such adjustments to the home market price when the sales to the United States are ESP sales. For these final results, the Department has continued to follow its current practice and has made the adjustment.

We adjust FMV for selling expenses incurred on home market sales, and we adjust U.S. price for selling expenses incurred on sales in the United States. It is not our practice to include interest expenses in selling expense adjustments in either market. We find no reason to believe that double-counting has occurred.

Comment 3: SCM asserts that Brother's Olympic advertising expense should be reallocated to reflect the relative intensity of advertising in the United States and the home market. SCM believes that the Department's derivation, based on relative sales value, does not take into account the greater intensity and expense of advertising in the United States. Absent verified evidence showing all advertisements by market, SCM argues that only those Olympic sponsorship costs directly related to Wordshot or other specific models sold in Japan should be allowed as adjustments to FMV, with the balance of expenses allocated to U.S. sales.

Brother contends that the Olympic advertising costs were properly allocated and states that SCM offers no practical method to measure the exposure and intensity of advertising in each national market.

Department's position: We disagree with SCM. We know of no reasonable method for quantifying the relative exposure and intensity of advertising in the various markets, nor has one been suggested by SCM. We verified Brother's reported Olympic advertising expenses, and are satisfied with the information contained in Brother's questionnaire responses. We believe our derivation of Olympic advertising expenses, based on relative sales value, is reasonable and consistent with prior Department practice. In addition, this methodology is consistent with our treatment of Olympic advertising in previous PETs reviews. See 82–86 PETs Final, 40927.

Comment 4: SCM objects to the Department's use of an average credit term for Brother's U.S. credit costs, and argues that Brother's U.S. credit should be calculated on a sale-by-sale basis. SCM contends that the use of an annual average credit term is not compatible with the fluctuation in payment periods by customers and by season, and that it dilutes the margin of dumping for particular customer accounts.

Brother maintains that the Department has the discretion to calculate average adjustments in dumping margin calculations, and that where a respondent has a large volume of sales and does not maintain computerized payment records, the Department may and does use an average payment period to calculate credit expenses. Brother also states that the "representativeness" of an average credit period was confirmed at verification.

Department's Position: We disagree with SCM. As in prior review, we have determined that the use of averaged collection periods is reasonable, especially where, as here, the number of sales is large and the respondent does not maintain computerized records. See 82–86 PETs Final, 40928; 81–82 PETs Final 1504, 1509. See also Final Determination of Sales at Less than Fair Value; Color Picture Tubes from Singapore, 52 FR 44190, 44195 (November 18, 1987). There is no evidence that the use of average correction periods produces figures which are unrepresentative of the actual credit costs incurred.

Comment 5: SCM objects to the exclusion from the U.S. sales listing of sales of Brother typewriters in Guam. SCM also argues that unreported sales in the U.S. of model AX–10 discovered at verification should be included in the final results.

Brother contends that it did not report sales to Guam because Guam is not in the customs territory of the United States. Brother also contends that SCM is mistaken in its claim that certain sales of model AX–10 were not reported. Brother argues that the AX–10 sales in question were included in the Department's preliminary analysis.

Department's position: We disagree with SCM's contention that Brother should have included sales to Guam in its U.S. sales listing. Guam is not within the customs territory of the United States and, thus, merchandise imported into Guam is not governed by the Tariff Act. 19 CFR 7.8 n.5. Brother correctly excluded any such sales from its sales listing. We also disagree with SCM's claim that sales of AX–10 typewriters have been excluded from the sales listing used by the Department. We reexamined our copy of the computer output for the preliminary results of this review and confirmed that the sales in question are included in the sales list for the May 1986–April 1987 period.

Comment 6: SCM argues that, insofar as BIC and BIC-Japan (BIG-J) are sales companies that sell Brother products to third countries and to the United States, Brother's indirect selling expenses in the United States should be increased to reflect an allocated portion of expenses incurred by BIC–J in Japan on behalf of BIC's export sales operations. SCM contends that since all expenses of a domestic sales subsidiary are deducted from FMV, then all expenses incurred by BIC–J should be related to export sales and deducted accordingly. Brother argues that all of BIC–J's SG&A expenses were reported and included in the Department's preliminary analysis.

Department's position: While we agree with SCM that expenses associated with the exportation of PETs to the United States should be deducted from ESP, we disagree that any upward adjustment of Brother's indirect selling expense in the United States is necessary in this situation. In verifying Brother's U.S. selling expenses in Japan, we observed that Brother derived BIC–J SG&A expenses by dividing total BIC–J SG&A expenses by total BIC–J sales. The SG&A expenses cover all BIC–J departments. We are satisfied that all relevant information has been reported and included in our analysis.

Comment 7: SCM claims that Brother has not established that machines claimed as samples in the home market should be excluded from price comparisons.

Brother maintains that it included home market sample sales in its sales tape, and adds that this fact was substantiated at verification.

Department's position: We verified the completeness of Brother's home market sales for the May 1986–April 1987 period. The sample sales in question are included in the home market sales reported for this period, and included in our analysis.

Comment 8: SCM argues that Brother's direct product line advertising deduction in the home market should exclude expenses for a brochure that pictures specific models but does not depict the Wordshot, the home market model to which all U.S. sales were matched. SCM agrees with Brother's claim that the brochure affected the corporate image and therefore benefited sales of all PETs in the home market, including the Wordshot. However, SCM contends the Department has rejected this argument as sufficient grounds for treating Olympic advertising expenses as direct expenses in two previous segments of the PETs proceeding. See 82–86 PETs Final, 40927; 81–82 PETs Final, 1054, 1059.

Brother argues that while SCM relies upon the Department's decision to make no adjustment for Olympic advertising

featuring office model typewriters, the factual issues in the present review are different from those in the two previous reviews. During the present review period, Brother's advertisements in question depict typewriters in the same product line as the Wordshot. For this reason, Brother argues that the Department should follow its current practice and treat this advertising as direct product line advertising in the home market.

Department's position: We disagree with SCM. Although the Department has refused in previous reviews to make an adjustment for Olympic advertising expenses, those decisions were based on the fact that the advertisements in previous reviews only promoted Brother's office typewriters, which are not subject to the pertinent antidumping duty order. See 82–86 PETs Final, 40927; 81–82 PETs Final, 1509. During the time period presently under review, Brother's product line direct advertising promoted PETs and the product line of which the Wordshot model is a part. For this reason, the Department has followed its current practice of allocating advertising and sales promotion expenses on a product line basis for these final results, and has allocated the advertising expense in question as a direct expense for the Wordshot model sold in the home market. See Television Receivers, Monochrome and Color, from Japan, 54 FR 35517 (August 28, 1989); Color Picture Tubes from Japan, 55 FR 37915, 37921 (Sept. 1, 1990).

Comment 9: SCM argues that the U.S. sales data for Brother shows several ESP transactions in which the sale date is before the date of export or import. As this causes negative warehousing and inventory carrying costs, the deduction of these "negative expenses" increases ESP. SCM suggests this brings into question the accuracy of Brother's sales classifications, and asks that the computer program instructions be amended to ensure that in such situations there is no upward adjustment to U.S. price. SCM submits that given the above-noted inconsistencies, the Department should analyze all ESP sales with negative U.S. inventory costs, and determine whether the sales were ESP sales within the meaning of 19 U.S.C. 1677a(c).

Brother asserts that the negative expenses at issue have no material impact on the margin calculations. Brother claims that the corresponding home market matching sales had indirect expenses that were greater than and, therefore, capped by the U.S. indirect expenses, which included inventory carrying costs. Brother submits that increasing the U.S. carrying costs would increase the ESP cap, increase home market indirect expenses, and decrease FMV. Brother argues that the end result would be no change in the dumping margin. Brother also argues that these errors represent such a small proportion of Brother's sales that an independent analysis of such errors is unjustified.

Department's position: We agree with SCM in part. Where an error in the date of sale or transaction classification causes an upward shift in U.S. price, we agree that this unfairly benefits the producer/exporter. Instructions have been inserted into the computer program to avoid any such shift. We disagree, however, that these errors establish a basis to question the integrity of the data submitted by Brother. Of the seven transactions alleged by SCM to have this error, one is a result of the wrong sale date used in our preliminary analysis, as discussed above, and two have identical entry and sale dates, which is unusual but not unreasonable. The only four errors in Brother's data appear to be simple clerical errors. Because these four errors account for such a minuscule proportion of Brother's database, and because they were found in the database as a whole rather than a sample thereof, their existence in this situation does not imply widespread problems with the remainder of the sales data.

Comment 10: SCM claims that Brother double-reported certain ESP sales of model AX–12.

Brother asserts that SCM is mistaken, arguing that the sales in question are sales of identical models but of different colors.

Department's position: We disagree with SCM. The transactions in question are sales of model AX–12P and model AX–12L. The P identifies a pink machine, whereas L identifies a lavender machine. Brother separately records sales of identical models of different colors. As a result, there has been no double-reporting.

Comment 11: SCM contends that Nakajima improperly excluded sales of models AX–255, AX–256, and AX–257A (collectively, AX–255) from U.S. and third-country sales data. SCM argues that the existence of a computer interface in these models does not exclude them from the scope of the antidumping duty order, and that at no time did the Department rule that a computer interface was a sufficient criterion for excluding a typewriter from the scope of the antidumping duty order. SCM suggests that if any of these typewriters were exported to the United States, the Department should assign the highest current margin to those imports as the best information otherwise available.

Nakajima argues that SCM's objection to the exclusion of Nakajima's typewriters with a computer interface is untimely. Nakajima also contends that the buffer memory in models with a computer interface is equivalent to text memory, and that such machines are, therefore, automatic and not subject to this review.

Department's position: The question of whether or not a non-automatic PET with a computer interface falls within the scope of the antidumping duty order was raised in a previous segment of the PETs proceeding but has never been directly addressed. See 81–82 PETs Final, 1505. Since they were never determined to be within the scope of the order, such machines were properly not included in this review. We will conduct a separate scope inquiry to determine whether these models are included in the scope of the antidumping duty order.

Comment 12: SCM believes that the FMVs for Nakajima were incorrectly calculated. SCM contends this fundamentally undermines the preliminary determination, and claims that they are unable to evaluate the existence or extent of dumping, or even the effects of their own comments, without a revised program. SCM argues that a corrected version of the program should be released, and that comments on the corrected version be accepted, before the Department reaches a final determination.

Department's position: We agree that the FMVs for all Nakajima models were incorrectly calculated for the preliminary results. The error has been corrected for these final results. The process of identifying and correcting clerical errors is an integral part of the post-preliminary review process. Extending this process to allow all interested parties to submit additional comments on error-free programs would unnecessarily delay the final results. As a result, we have treated this error as we would any other clerical error, and we did not release a revised copy of the computer program before these results were completed.

Comment 13: SCM argues that the addition of a non-functioning EPROM to Nakajima model AX–231 ENG sold in Canada does not justify an adjustment for differences in merchandise. SCM contends that the question is whether "the amount of any price differential is totally or partly due to such difference." 19 CFR 353.57(a). SCM asserts that it defies common sense to conclude that

there is a price differential due to an extra memory chip which Nakajima, for manufacturing convenience, does not omit from the AX–231 English-language machine even though the chip has no function except when used on a French-language machine.

Nakajima argues that 19 CFR 353.57(b) implies a fundamental precept: That the producer should price its merchandise to recover all production costs. Nakajima maintains that the additional EPROM in model AX–231 ENG represents an additional cost that must be recovered, and Nakajima must set its price for that model to recover the additional cost. Nakajima claims that it is able to set a lower price for the comparison U.S. model because that model has no additional EPROM.

Department's position: We disagree with SCM. In the absence of information that PETs with and without the additional EPROM are sold in the same market at the same price, we cannot conclude that the additional manufacturing cost related to the EPROM is not reflected in the prices charged. Therefore, the Department finds it reasonable to attribute the price differential between the U.S. and third-country models at least in part to the physical differences in the merchandise. For that reason, we have not changed the difference in merchandise adjustment for this model.

Comment 14: SCM objects to the Department's decision in the preliminary results to match U.S. sales of Nakajima's electro-mechanical models M–85 and M–100C to Canadian sales of electronic model AX–110. SCM contends electro-mechanical PETs and electronic PETs do not qualify as similar merchandise under 19 U.S.C. 1677(16)(B). SCM notes that they are made from different component materials and involve different capital investment, and that the reported direct costs indicate they are not comparable. SCM asserts that U.S. sales of models M–85 and M–100C should be compared to FMVs based on constructed value.

Nakajima agrees with SCM that FMV for Nakajima's electro-mechanical PETs should not be based on third-country sales of electronic model AX–110. Like SCM, Nakajima argues that electro-mechanical PETs and electronic PETs do not qualify as similar merchandise within the meaning of the Tariff Act. However, Nakajima asserts that FMV for the models at issue must be based on third-country sales of such or similar merchandise to the Federal Republic of Germany (Germany), noting the preference stated in Department regulations for basing FMV on third-country sales, rather than on constructed value, when adequate information is available. 19 CFR 353.48(b).

Department's position: Nakajima's home market sales were inadequate (less than five percent of third-country sales), and we selected Canada as the most appropriate third-country market for sales comparisons. Nakajima's electro-mechanical models M–85 and M–100C, sold in the United States, and its electronic model AX–110, sold in Canada, are not "similar merchandise" within the meaning of the Tariff Act, and therefore should not be matched for the purposes of this review. However, we disagree with SCM's suggestion that FMV for the electro-mechanical models be based on constructed value rather than third-country sales. Department regulations indicate the Department's preference for third-country sales rather than constructed value as a basis for FMV when home market sales are inadequate (19 CFR 353.48(b)). Additionally, 19 CFR 353.49(c) allows the Department to aggregate sales to more than a single third country in order to find adequate sales. During the review period, Nakajima did not sell any electro-mechanical PETs in Canada, but it did sell them in Germany, its second largest third-country market. Nakajima included the necessary German sales data in its questionnaire response. For these final results we have based FMV on Canadian sales, with the exception of U.S. models M–85 and M–100C. We have based FMV for these models on German sales of model M–100C.

Respondent Comments

Comment 15: Brother objects to the treatment of a portion of its claimed home market inland freight expense as an indirect expense. Specifically, Brother claims that its warehousing expense should be treated as a direct expense, and included in the freight-out expense. The warehousing is done by parties unrelated to Brother who take responsibility for insuring delivery to Brother's customers. Brother cites *Asahi Chemical Industry Co., Ltd.* v. *United States*, 12 CIT ____, 692 F. Supp. 1376 (1988), *reh'g granted, dismissed as moot*, 727 F. Supp. 1376 (CIT 1988) (*Asahi*), in support of its argument.

SCM argues that the Department correctly treated the warehousing expense as an indirect expense because the expense was incurred prior to sale. SCM states that 19 CFR 353.56(a)(1) provides that the Department will make an adjustment for differences in circumstances of sale where the expense bears a direct relationship to the sale of the merchandise; however, where warehousing expenses are incurred prior to sale, the Department has declined to treat warehousing as a direct expense. SCM claims that *Asahi* held that where expenses have a direct relationship to the sales reviewed, an adjustment should be made. In addition, SCM cites *LMI-La Metalli Industriale, S.p.A.* v. *United States*, 912 F.2d 455 (Fed. Cir. 1990) (*LMI-La Metalli*), where the Court upheld the Department's practice of treating pre-sale warehousing expenses as an indirect expense.

Department's position: We disagree with Brother. As the verification report of Brother's sales indicates, the home market warehousing expenses at issue were incurred prior to sale. SCM correctly notes that *Asahi* held that, where expenses have a direct relationship to the sales reviewed, an adjustment should be made. Brother's reliance on *Asahi* is misplaced because its warehousing expenses were incurred prior to sale and, thus, bear no direct relationship to the sales under review. As SCM notes, the Department's practice of treating pre-sale warehousing expenses as indirect expenses was upheld in *LMI-La Metalli*.

Furthermore, we discovered at verification that Brother's claimed freight-out expenses included storage and other miscellaneous expenses such as promotional, education and training expenses.

Brother could not separate the storage charges and other miscellaneous expenses from those that were actual freight-out charges. Given this, and the fact that only a portion of the charges on the inland freight invoice we examined were strictly freight-out, we reallocated the remaining portion as miscellaneous expenses and included these with Brother's home market indirect selling expenses.

Comment 16: Brother claims the Department failed to include commissions paid in the United States in the ESP cap, and asks that the cap be revised to include U.S. commissions. Brother argues that the ESP cap has generally been interpreted to include all indirect expenses, including inventory carrying costs and commissions.

SCM asserts that the Department has properly excluded commissions from the ESP cap pursuant to 19 CFR 353.56(a)(1). SCM argues that Brother's request that commissions be included in the ESP cap does not conform with 19 CFR 353.56(b)(1).

Department's position: We disagree with Brother. Department regulations stipulate that, if the Department makes an allowance for commissions in one of the markets under consideration and no

commission is paid in the other market under consideration, then the Department will make a reasonable allowance for other selling expenses in the other market (19 CFR 353.56(b)(1)). There is no provision for an offset to commissions when commissions are paid in both markets. See Department of Commerce, Study of Antidumping Adjustments Methodology and Recommendations for Statutory Change, November 1985, 44. Brother paid commissions in both markets, and the Commissions were deducted from the selling prices in both markets. No further adjustment is needed. Additionally, we note that our treatment of commissions in this review is consistent with our treatment of commissions in previous PETs proceeding segments. See 82–86 PETs Final, 40937.

Comment 17: Brother discovered, after the preliminary decision was published, that they had mischaracterized certain purchase price sales as ESP sales. Brother contends that these sales should be treated as purchase price sales.

SCM objects to Brother's request to reclassify certain ESP sales as purchase price sales. SCM asserts that the requested change is untimely, and argues that the request is not supported by factual evidence on record.

Department's position: We disagree with Brother. As explained in 19 CFR 353.31(a), an interested party may submit factual information to rebut, clarify, or correct factual information submitted by an interested party at any time prior to the publication of preliminary results of review. Brother did not request a change of status for these sales until it submitted its pre-hearing brief after publication of our preliminary results. As this is new, unsubstantiated information submitted after the applicable time limit, the Department has not considered this information in its final results, and we have treated the sales in question as ESP sales. 19 CFR 353.31.

Comment 18: Brother objects to the Department's use of different interest rates for credit expense and inventory carrying cost expense in the United States for the 1987–1988 review period. Brother argues that the rate reported in the questionaire response should be used in the Department's calculations of both U.S. credit and U.S. inventory carrying costs.

Department's position: We disagree. Brother stated in its questionnaire response that all of its PETs sold in the United States during the May 1987–April 1988 period had been shipped to the United States during the May 1986–April 1987 period. To more accurately calculate Brother's inventory carrying cost for the 1987–1988 period, we averaged the short-term interest rates for the 1986–1987 and 1987–1988 periods, and have used that averaged rate as a warehousing interest rate in our inventory carrying cost calculations. This explains our use of an interest rate for 1987–1988 inventory carrying costs that is different than the short-term interest rate submitted by Brother in its 1987–1988 questionnaire response. However, as noted above, we discovered a clerical error in the warehousing interest rate we used for the preliminary results. We have corrected that error for these final results.

Comment 19: Brother requests that the Department apply a 90–day lag in exchange rates for the period May 1, 1986, through March 31, 1987. An exchange rate lag would, for the purposes of this review, delay for 90 days any changes in the exchange rate. For example, a transaction in the United States on February 28, 1987, would be matched to a weight-averaged FMV for the same merchandise for February, 1987, but the exchange rate used would be from December 1, 1986. Brother argues that a sustained increase in the yen's value during this period is responsible for the differences between United States prices and FMV. Brother contends that precedent for using the exchange rate lag rule in an administrative review has been established by the CIT in Industrial Quimica Del Nalon, S.A. v. United States, ___ CIT ___, 729 F. Supp. 103 (1989) (*Industrial Quimica*); appeal denied (on interlocutory issue only), 904 F. 2d 44 (Fed. Cir. 1990). Brother claims that the fact that *Industrial Quimica* is not a final decision is not grounds for disregarding it. Brother further claims the CIT has established that a non-final CIT opinion is a nonetheless valuable, though non-binding, precedent unless and until it is reversed. See Rhone Poulenc, S.A. v. United States, 7 CIT 133, 137, 583 F. Supp. 606, 612 (1984); Philipp Borthers, Inc. v. United States, 10 CIT 76, 79, 630 F. Supp. 1317, 1321, (1986).

SCM contends that the Department correctly refused to apply 19 CFR 353.60(b), which provides that the Department will not take into account any differences between the United States price and FMV which result solely from temporary exchange rate fluctuations during a less than fair value investigation. SCM contends that Brother admits that the appreciation of the yen was a sustained movement and that sustained currency changes are not subject to the special rule. SCM argues that the Department has consistently refused to invoke 19 CFR 353.60(b) in every administrative review involving Japan during the 1986–87 review period when a sustained appreciation of the yen occurred.

Department's position: We disagree with Brother. SCM correctly states that 19 CFR 353.60(b) applies only to investigations. Following the issuance of an antidumping duty order, respondents are on notice that they must take into account fluctuations in currency which may potentially affect the calculation of antidumping duties. Respondents have been active participants in the administrative reviews of the Antidumping Duty Order on Portable Electric Typewriters from Japan, and were aware that their prices might have to be adjusted given the sustained appreciation of the yen during the review period. Furthermore, while Brother cites *Industrial Quimica* in support of its argument, that case has not been finally decided by the CIT; therefore, consistent with the Department's practice, we decline to apply 19 CFR 353.60(b) in this review. See Television Receivers from Japan; Tapered Roller Bearings and Parts Thereof Finished and Unfinished from Japan, 52 FR 30700, 30704, 30707 (Aug. 17, 1987).

Comment 20: Brother requests that the Department insert a statement into the final results explaining that Brother's 1987–1988 dumping margins were distorted due to inventory close-out sales and unusually large inventory carrying costs in the United States.

SCM argues that the Department should not make the statement requested by Brother, adding that Brother has not established that the models sold were part of an inventory close-out.

Department's position: The Department has explained how it arrived at Brother's dumping margin in analysis memoranda that have been placed in the official file. It is not the Department's responsibility to explain why a producer/exporter's margins are high.

Comment 21: Canon asserts that the Department should revise Canon's third-country indirect selling expenses to reflect indirect advertising costs and other indirect expenses incurred by Canon Europa (Europa) on behalf of Canon Verkoop (Verkoop) and OY Canon (OY).

SCM asserts that some of Europa's institutional advertising may have benefitted sales in the United States. SCM argues that unless Canon can tie advertising expenses to a particular market, the Department should deny the

adjustment or, alternatively, allocate those expenses to U.S. sales as well as third-country sales.

Department's position: We agree with Canon. Our analysis of Canon's third-country sales is divided into two parts: Analysis of Verkoop's sales of model TS–5 in the Netherlands, and analysis of OY's sales of model S–55 in Finland. Verkoop's claimed indirect selling expense is composed of three components: institutional advertising incurred by Europa; Europa's selling expense; and indirect selling expense for Verkoop in the Netherlands. In our preliminary analysis of Verkoop's sales, we inadvertently excluded the institutional advertising and Europa selling expense components. For these final results we have included these two components in Verkoop's indirect selling expense.

OY's claimed indirect selling expense is also composed of three components: institutional advertising incurred by Europa; Europa's selling expense; and indirect selling expense for OY in Finland. In our preliminary analysis of OY's sales, we inadvertently used the wrong computer variable name for the institutional advertising component. We have corrected this error for these final results.

We disagree with SCM and believe there is no evidence that Europa's institutional advertising campaign benefitted Canon's sales in the United States. Additionally, the record contains no evidence that Europa's institutional advertising campaign did not benefit sales of model TS–5 in the Netherlands and model S–55 in Finland.

Comment 22: Canon argues that, in calculating third-country indirect selling expenses and credit, the Department has understated Verkoop's and OY's indirect selling expenses and credit by using unit prices excluding value added taxes (VAT) as the basis of the expense calculations. Canon observes that, in calculating the indirect expenses, the Department used a percentage figure provided by Canon in the questionnaire response. This percentage represents per unit indirect expenses for Europa, and was derived by dividing Europa's SG&A expenses—less advertising, packing and freight—by the company's total sales for the period. Canon points out that in calculating the percentage in question, Canon used gross sales figures that included VAT. Canon asserts that the Department's application of this VAT-inclusive per unit percentage to unit prices net of VAT systematically understates the expenses. Canon also argues that multiplying a credit rate by a unit price net of VAT unfairly reduces the credit adjustment.

SCM contends that the Department properly adjusted Canon's third-country prices to exclude VAT, because such taxes were not included in the transfer price between Europa and Verkoop. SCM submits that the error, if at all, is that the Department did not recalculate the ratio of Europa SG&A and Verkoop SG&A using VAT-exclusive sales values.

Department's position: We agree with Canon. For the preliminary results, we used unit prices net of VAT as the basis of FMV, and in calculating Canon's third-country credit and indirect sales expense deductions. We confirmed that, contrary to SCM's contention, Canon's claimed credit and indirect selling expense adjustment percentages were based on gross sales values. We agree that our methodology understated these third-country expenses. For these final results we have used VAT-inclusive gross unit prices in our calculations of Canon's third-country credit and indirect expenses.

Comment 23: Canon contests the Department's decision in the preliminary results to treat the commissions OY paid to its in/house sales staff as indirect selling expenses. Canon argues that such commissions qualify as direct selling expenses where actual selling is required to receive the commission, the sales in question are to arm's-length customers, and commissions are paid according to a fixed schedule. See Porcelain-on-Steel Cookware from Mexico, 55 FR 21061, 21062 (May 22, 1990) (*Mexican Cookware*); Generic Cephalexin Capsules from Canada, 55 FR 26820, 26824 (1990) [*sic*]; Certain Iron Construction Castings from Canada, 55 FR 2412, 2414 (1990) [*sic*].

According to Canon, commissions to OY's sales force were paid according to a fixed schedule, a copy of which was provided in the questionaire response; actual sales were required to receive the commissions; and all of the sales in question were to unrelated customers. Canon, therefore, contends that the OY commissions satisfy all the criteria for treatment as direct selling expenses.

SCM asserts that without evidence that Canon paid equivalent commissions to unrelated sales agents, the Department should not allow the claimed adjustment for commissions Canon paid to its in-house sales force.

Department's position: We disagree with Canon. During the review period Canon paid commissions to employees and outside salespeople for sales to the United States. Canon paid commissions only to employees in the third country. In our preliminary results, we treated commissions paid by Canon to employees in the United States as direct selling expenses, because a comparison of those commissions to commissions to outside salespeople indicated that the commission payments to employees were made at arm's length. Because all of Canon's third-country commissions were paid to its in-house sales force, we are unable to determine if such commission payments were made at arm's length. Consequently, we have continued to treat Canon's third-country commissions to employees as indirect selling expenses for these final results.

Comment 24: Canon argues that the ink ribbons, daisy wheel printers, and user manuals provided by OY to its customers qualify as a type of rebate and that the costs thereof should be treated as direct selling expenses. Canon asserts that it is a longstanding Department practice to treat the provision of free merchandise, other than that under investigation, as a rebate, and to treat the costs involved as direct selling expenses. Canon argues that while the Department prefers rebate information on a transaction-by-transaction basis, the Department has also accepted information on rebates allocated over total sales when more specific data is not available. See Mexican Cookware. Canon argues that the costs of providing the ink ribbons and daisy wheel printers to OY's customers would not have been incurred but for the fact that those customers were in the process of purchasing Canon typewriters. The fact that Canon provided cost data in these cases on an invoice-by-invoice basis is an additional indication that these expenses should be viewed as direct selling expenses.

Canon allocated the costs associated with distributing the Finnish-language instruction manuals across all S–55 sales in Finland. As these manuals were provided free of charge upon request, and because these manuals would not have been distributed absent the sale of PETs, Canon contends that these costs should also be treated as direct selling expenses.

SCM claims that Canon has failed to establish that the give-away items at issue were directly related to its third-country sales.

Department's position: The free merchandise in question was not provided on the basis of a pre-established schedule or program and does not, therefore, qualify as a rebate. However, the expense associated with the merchandise give-away is directly related to, and would not occur but for, the sale of PETs. Therefore, we have treated this expense as a direct selling expense for these final results.

Comment 25: Canon requests that Canon U.S.A.'s sales be compared to third-country sales at the sales level of trade. In its questionnaire response, Canon submitted level-of-trade information concerning its U.S. and European customers. Canon asserts that by not attempting to compare Canon U.S.A's sales to sales at the same commercial level of trade in the third country, the Department is breaking with its own regulations and with longstanding practice.

SCM maintains that Canon has not demonstrated that the quantities sold and prices charged to different classes of customers justify any distinction between levels of trade.

Department's position: We agree with Canon. 19 CFR 353.58 stipulates that the Department will normally calculate FMV and U.S. price on sales at the same commercial level of trade. In its original questionnaire response, Canon provided the necessary information to make sales comparisons at the same level of trade, and we have done so for these final results.

Comment 26: Nakajima objects to the Department's decision to match U.S. sales of electro-mechanical PETs to Canadian sales of electronic PETs. Nakajima argues that a comparison of the most similar merchandise requires that electro-mechanical typewriters sold in the United States be compared with electro-mechanical typewriters sold in Germany.

Department's position: We agree. See our response to comment number 14.

Comment 27: Silver argues that its EX series PETs were obsolete models and should not be included among the sales of U.S. typewriters reviewed. Silver contends that special treatment of obsolete merchandise has been provided in past reviews. See Motorcycles from Japan, 43 FR 35410, 35411 (Treasury Department), (August 8, 1978) (Motorcycles from Japan); Certain Dried Heavy Salted Codfish from Canada, Final Determination of Sales at Less than Fair Value, 50 FR 20819, 20821, (May 20, 1985) (Codfish from Canada). Silver claims that the introduction of new technology into the PET market, along with the pace at which newer PET models were being developed and sold, rendered Silver's EX series typewriters obsolete. Silver contends it sold these models at the highest prices it could obtain in the market. Silver asserts that the antidumping law was intended as a remedial not a punitive statute, and that no remedial purpose can be served by imposing duties on a manufacturer whose merchandise has become obsolete.

Department's position: We disagree. As we have noted in a prior review, the Department does not ignore U.S. sales on the basis of obsolescence. See 82–86 PETs Final, 40937–40938. Additionally, there is no provision in the statute or regulations to exclude U.S. sales in an administrative review except in cases of sampling. Silver's reference to Codfish from Canada is misplaced because that was an investigation, and because in that case the product under review had a limited life span, and distress sales were made to avoid loss of product. We could find no reference to sales of obsolete merchandise in Motorcycles from Japan.

Comment 28: Silver claims that sales in the United States of its EX series PETs should be excluded from the margin calculations because they were not made in the ordinary course of trade. According to Silver, the company's U.S. subsidiary was undergoing a major reorganization during the review period, and was forced to dispose of unmarketable and unwanted merchandise at whatever price it could get. Silver argues that the Department has, in the past, agreed to exclude U.S. sales when those sales are not representative of the respondent's selling expenses in the U.S. market. See Certain All-Terrain Vehicles from Japan; Final Determination of Sales at Less than Fair Value, 54 FR 4864, 4867 (January 31, 1989) (All-Terrain Vehicles). Silver notes that the Senate report on the 1974 Trade Act holds that the "Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market price." Senate Report at 179.

SCM maintains that Silver's arguments do not withstand scrutiny. Reorganization of the company is not a sufficient basis on which to claim that the U.S. sales at issue were not made in the ordinary course of trade. Moreover, SCM states, even assuming there was a basis in the Tariff Act to exclude U.S. sales from the entry-by-entry calculation of antidumping duties required to be assessed pursuant to section 751 of the Tariff Act, Silver provides no evidence that the models at issue were obsolete at the time of sale.

Department's position: We disagree with Silver. As SCM indicates, there is no statutory basis to disregard U.S. sales in an admninistrative review. While Silver cites All-Terrain Vehicles in support of its argument, that case was a fair value investigation and not an administrative review. In administrative reviews the Department cannot omit any U.S. sales from the calculation of the dumping margins unless sampling is being employed. See 19 U.S.C. 1677 f–1.

Furthermore, Silver's cite to the legislative history of the 1974 Trade Act, specifically, Senate Report 93–298 at 179, is inapposite. The statement cited by Silver was made in the context of a discussion of the International Trade Commission's injury determinations in cases where the merchandise at issue is in short supply. Placed in its proper context, the Senate Report language has no bearing on this issue.

Therefore, we have continued to include Silver's U.S. sales for EX series typewriters in our analysis for these final results.

Comment 29: Silver argues that its sales of PETs in Japan were not made in sufficient quantities for comparison to third-country sales, but that home market sales were also substantially less than five percent of U.S. sales. Silver asserts that the Department's regulations state that, in such situations, the Department should use constructed value for comparison to U.S. prices. See Sweaters from Hong Kong, 55 FR 30733 (July 27, 1990); Fishnetting of Man-made Fibers from Japan, 55 FR 34042, 34043 (August 21, 1990). Silver, therefore argues that the Department should base FMV on constructed value, and asserts that its submissions on difference-in-merchandise adjustments provide the Department with the necessary data to derive constructed values.

SCM points out that Silver has raised the question of viability of its home market for the first time in its pre-hearing brief. SCM contends that the data supporting this argument, also submitted for the first time in the pre-hearing brief, are untimely, and should be rejected by the Department.

Department's position: There is no way to determine the viability of Silver's home market from the information on record, because the total quantity of Silver's export sales is not on record. Silver failed to submit the quantity and value of third-country sales, as requested in Section A of the Department's questionnaire, in its questionnaire response. It was not until the pre-hearing brief that Silver suggested that its home market was not viable as a basis for FMV, and submitted information on the quantity and value of third-country sales. However, in accordance with 19 CFR 353.31(a)(2), we rejected this information as untimely submitted. Therefore, there is no information supporting Silver's contention on the record. Consequently, for these final results, we have used

Silver's home market sales as the basis of FMV.

Comment 30: Silver argues that its home market sales were made neither in the usual commercial quantities nor in the ordinary course of trade. Silver points out that many of its home market sales consist of the sale of a single unit. Silver also points out that the products in question are English language PETs which have a limited market in Japan, and they argue that the small number of sales of these PETs in the home market could in no way finance unfairly priced PET sales in the United States.

SCM asserts that Silver failed to demonstrate that the small quantities involved in Japanese sales of English language PETs are outside the ordinary course of trade or not in usual commercial quantities.

Department's position: We disagree with Silver. Small home market lot sizes are not, in and of themselves, indicative of sales not made in usual commercial quantities and/or of sales outside the ordinary course of trade. Silver has observed that the market in Japan for English language PETs is small. Given this, it is not unusual to see small home market lot sizes for sales of English language PETs.

Comment 31: Silver argues that returns of merchandise sold in the home market should be credited against sales. While Silver admits that it did not identify the specific sales to which returns should be applied, it claims that in many cases the relationship is obvious. Silver also suggests that the negative invoices could be matched with sales in the same month or, alternatively, on a FIFO-type basis.

SCM maintains that without sufficient supporting information regarding the matching of negative invoices to corresponding positive invoices, the Department should not attempt to match such invoices on a FIFO-type basis.

Department's position: We disagree with Silver. Silver failed to provide any information or instructions that would enable the Department to properly take account of such returns. It is unreasonable to expect the Department to match negative invoices to their corresponding positive invoices without any information regarding how such matches can be accurately made. Therefore, for these final results, as we did for the preliminary results, we have removed all negative invoices from the U.S. sales list but have not removed any corresponding positive invoices.

Final Results of the Review

As a result of the comments received and the correction of certain programming and clerical errors, we have determined the margins to be:

Manufacturer	Period of review	Margin (percent)
Brother	05/01/86-04/30/87	14.33
	05/01/87-04/30/88	62.79
Canon	05/01/86-04/30/87	2.80
Matsushita	05/01/86-04/30/87	* 4.92
	05/01/87-04/30/88	* 4.92
Nakajima	05/01/86-04/30/87	0.35
Silver	05/01/86-04/30/87	78.97
	05/01/87-04/30/88	88.85

* No shipments during the period; rate from the last period during which there were shipments.

The Department will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

As provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins will be required for the above firms. Since the most recent margin for Nakajima is *de minimis*, the Department shall not require a cash deposit of estimated antidumping duties for Nakajima. For any shipments of this merchandise manufactured or exported by any of the remaining known manufacturers/exporters not covered in this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms. For any future entries of this merchandise from a new exporter, whose first shipments occurred after April 30, 1988, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of estimated antidumping duties of 88.85 percent shall be required. These deposit requirements and waiver are effective for all shipments of portable electric typewriters (including automatic portable electric typewriters and portable electric typewriters with calculating mechanisms) entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until the publication of the final results of the next administrative review.

This administrative review and notice is in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 25, 1991.

Majorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-7988 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-087]

Portable Electric Typewriters From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping duty order on portable electric typewriters from Japan. The review covers one manufacturer/exporter of this merchandise to the United States, Canon, Inc., from May 1, 1987 through April 30, 1988. The review indicates the existence of dumping margins.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Tom Prosser or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 1988, the Department of Commerce (the Department) published in the **Federal Register** (53 FR 40926) the final results of its last administrative review of the antidumping duty order on portable electric typewriters (PETs) from Japan (45 FR 30618; May 9, 1980). In May, 1988, the petitioner requested, in accordance with § 353.53a(a) (1987) of the Commerce Regulations, that we conduct an administrative review of the May 1, 1987 through April 30, 1988 period. We published a notice of initiation of review on June 29, 1988 (53 FR 24470). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

The Department initiated reviews for Brother Industries, Ltd. (Brother), Canon, Inc. (Canon), Matsushita Electric Industrial Co. (Matsushita), and Silver Seiko, Ltd. (Silver), for the period May 1, 1987 through April 30, 1988. Preliminary

results for Brother, Matsushita, and Silver were published in the **Federal Register** on January 3, 1991 (56 FR 246). Final results for the same three firms are being published concurrently with this notice. Preliminary results for Canon were inadvertently excluded from the January 3, 1991 notice. Therefore, the Department is now publishing preliminary results for Canon for the May 1, 1987 through April 30, 1988 period.

Scope of Review

Imports covered by the review are shipments of non-automatic PETs from Japan that do not incorporate a calculating mechanism. The merchandise is currently classified under Harmonized Tariff System (HTS) item number HS 8469.21.00 and 8469.29.00. During the review period, this merchandise was classifiable under Tariff Schedules of the United States Annotated (TSUSA) item 676.0510, and, in some cases, under TSUSA item 676.0540. TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers 1 manufacturer/exporter of Japanese PETs to the United States and the period May 1, 1987 and April 30, 1988.

Preliminary Results of the Review

Canon declined to respond to the Department's questionnaire for the May 1, 1987–April 30, 1988 period. In a letter to the Department, Canon acknowledged that, as a result, the Department could use the best information otherwise available (BIA) for Canon for this period. We have used as BIA the highest rate for a responding firm for this period. (See Portable Electric Typewriters from Japan, Final Results of Antidumping Duty Administrative Review being published concurrently with this notice.) We preliminarily determine that the following margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Canon Inc.....	05/01/87–04/30/88	88.85

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service. Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required for all shipments of Japanese portable electric typewriters by Canon. For any shipments of this merchandise manufactured or exported by any new manufacturer/exporter not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1988 and who is unrelated to any reviewed firm, or any previously reviewed firm, a cash deposit of 88.85 percent shall be required.

These deposit requirements are effective for all shipments of Japanese portable electric typewriters (including automatic portable electric typewriters and portable electric typewriters with calculating mechanisms) entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Regulations (19 CFR 353.22) (1990).

Dated: March 27, 1991.

Eric I. Garfinkel,

Assistant Secretary, for Import Administration.

[FR Doc. 91–7989 Filed 4–4–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–337–602]

Final Results of Antidumping Duty Administrative Review; Standard Carnations From Chile

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On January 30, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on standard carnations from Chile. The review covers three producers/exporters and the period March 1, 1989 through February 28, 1990.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–3530.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 3446) the preliminary results of its administrative review of the antidumping duty order on standard carnations from Chile (52 FR 8939, March 20, 1987). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Act).

Scope of Review

The merchandise covered by this review is standard carnations. During the period of review the merchandise was classifiable under the Harmonized Tariff Schedule (HTS) number 0603.10.90. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

This review covers three producers/exporters of standard carnations from chile to the United States and the period March 1, 1989 through February 28, 1990.

Final Results of Review

We invited interested parties to comment on the preliminary results. We received no comments. The final results are unchanged from those presented in the preliminary results of review. We determine that the following margins exist for the period March 1, 1989 through February 28, 1990:

Manufacturer/exporter	Margin (percent)
Coexflor	2.27
Sociedad Agricola	0.00
Flores de Chile	0.04

Please note that since Flores de Chile had no shipments during the review period, the margin listed for it is from the last review in which there were shipments.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, as provided by section 751(a)(1) of the Act: (1) A cash deposit of estimated dumping duties based on the above margin shall be required on shipments of standard carnations by Coexflor; (2) since the margin for Sociedad Agricola is 0.00 percent, the Department shall not require a cash deposit of antidumping duties on entries of carnations from Sociedad Agricola; and (3) since the margin for Flores de Chile is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department will not require a cash deposit of antidumping duties on entries of standard carnations from Flores de Chile. The cash deposit rate for any shipments of this merchandise produced or exported by the remaining known producers/exporters not covered in this review will continue to be the rate published in the previous review for the period November 3, 1986 through February 29, 1988 (55 FR 50856, December 11, 1990). The cash deposit rate for any future entries of this merchandise from a new producer and/or exporter, not covered in this administrative review, whose first shipment occurred after February 28, 1990, and who is unrelated to any reviewed firm will be the same as the rate established for Coexflor.

These cash deposit requirements are effective for all shipments of standard carnations from Chile, entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(7).

Dated: March 26, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-7990 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-05-M

Short-Supply Determination; Certain Type 409 CB Welding Quality Stainless Steel Wire Rod

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Determination on Certain Type 409 CB Welding Quality Stainless Steel Wire Rod.

SHORT-SUPPLY REVIEW NUMBER: 44.

SUMMARY: The Secretary of Commerce ("Secretary") hereby denies a short-supply allowance for 1,025 metric tons of certain Type 409 CB welding quality stainless steel wire rod for April—December 1991 under the U.S.—EC and U.S.—Japan steel arrangements.

EFFECTIVE DATE: March 28, 1991.

FOR FURTHER INFORMATION CONTACT: Jonathan Freilich or Richard Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230 (202) 377-0408 or (202) 377-0159.

SUPPLEMENTARY INFORMATION: On February 26, 1991, the Secretary received an adequate petition from the American Wire Producers Association ("AWPA"), on behalf of various members of its Stainless Committee, requesting a short-supply allowance for 1,025 metric tons of this product for April—December 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products ("U.S.—EC steel arrangement") and Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Certain Steel Products ("U.S.—Japan steel arrangement"). The AWPA's petition alleges that the only potential domestic supplier cannot produce material meeting the AWPA's specifications and that the two potential foreign suppliers do not have sufficient regular export licenses available to meet its members' needs. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures. (19 CFR 357.102) ("Commerce's Short-Supply Procedures").

The requested material meets the following specifications:

1. *Chemistry:*

	Range	Aim
Carbon	0.05 Max.	Low.
Manganese	0.45-0.75 Max.	0.55-0.75
Phosphorus	0.028 Max.	
Sulfur	0.028 Max.	
Silicon	0.45-0.75 Max.	0.55-0.75
Nickel	0.50 Max.	
Chromium	11.00-12.00	
Molybdenum	0.50 Max.	Low.
Iron	Balance	
Copper	0.25 Max.	Low.
Aluminum	0.10 Max.	
Columbium	10XC Min./0.60 Max..	
Co+Ti+V=<0.50		

2. *Size:* 0.218 inch (5.5mm) Diameter.

3. *Size Tolerance:* ±0.008 inch (0.20mm).

4. *Condition:* Hot-rolled, annealed and pickled rod for redraw.

5. *Tensile:* 70,000 PSI Max.

6. *Reduction:* 75% Min.

7. *Inclusions:* #3 Heavy Max.

8. *Grain Size:* Aim ASTM 4 to 7.

9. *Ovality:* 0.011 inch (0.28mm) Max.

10. *Surface:* Individual surface imperfections: 0.006 inch (0.152mm) max. Cumulative surface imperfections: 0.012 inch (0.305mm) max.

11. *Metallurgical Structure:* Tensile and Reduction-Average results on 10% sample. (Minimum 2 samples).

On February 26, 1991, the Secretary established an official record on this short-supply request (Case Number 44) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. On March 5, 1991, the Secretary published a notice in the **Federal Register** announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than March 12, 1991, and interested parties were invited to file replies to any comments no later than five days after that date. In order to determine whether this product could be supplied in the U.S. market for April-December 1991, the Secretary sent questionnaires to Carpenter Technology Corporation ("CarTech"), Al Tech Specialty Steel Corporation ("Al Tech"), and Baltimore Specialty Steels Corporation ("BSSC"). The Secretary received adequate questionnaire responses from the three companies and

comments from the petitioner and CarTech.

Questionnaire Responses

BSSC stated that it did not have the ability to supply a quality product during the time period required. A1 Tech stated that it could not produce the product AWPA wanted during April–December 1991, and that, in fact, it would be "several years" before A1 Tech could do so. CarTech stated that it currently produces Type 409 CB welding quality stainless steel wire rod completely meeting National-Standard's specifications, and could supply material within the time frame required. Although it maintained that the volume of the request was far greater than the true domestic demand for the material, CarTech stated that it could supply the full amount requested within its usual order-to-delivery period of 60 days.

Analysis

The major issue in this review is whether CarTech can supply material to meet the AWPA members' specifications. The evidence presented in the AWPA's petition that CarTech cannot supply this product was contradicted by CarTech in its questionnaire response, which also denied the AWPA's undocumented claim that CarTech had refused to quote prices to ECD and Maryland Specialty Wire for this product.

Over the past two years, CarTech has supplied Type 409 CB material to National-Standard, one of the petitioning companies. Concerning these shipments, there was disagreement between CarTech and National-Standard as to the acceptability of the material produced by CarTech. Two shipments CarTech produced had minor defects that caused them not to meet a National-Standard specification. CarTech acknowledged and corrected the problems. Most of this material that National-Standard feels is unacceptable did, however, fall within the specifications National-Standard had provided. In addition, the Secretary was informed by CarTech and the AWPA during the review that CarTech is currently supplying commercial quantities of Type 409 CB welding quality stainless steel wire rod to National-Standard. Despite the problems National-Standard claims to have had with CarTech material, National-Standard has continued to buy commercial quantities of this product from CarTech. Since CarTech has produced material meeting National-Standard's specifications, or the problems in the products it has supplied have been minor and correctable, the Secretary can only conclude that CarTech is a bona fide supplier of the requested product.

Conclusion

Because CarTech has supplied Type 409 CB welding quality stainless steel wire rod to National-Standard and is continuing to supply this product, it must be regarded as an acceptable supplier. Therefore, the Secretary hereby denies, pursuant to section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Procedures, the short-supply request for 1,025 metric tons of the requested Type 409 CB welding quality stainless steel wire rod for April-December 1991 under the U.S.-EC and U.S.-Japan steel arrangements. However, if the Secretary determines that this decision in this review was based on inaccurate information submitted by a private party, the Secretary may reconsider his decision.

Dated: March 28, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–8054 Filed 4–4–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–351–606]

Tubeless Steel Disc Wheels From Brazil; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On December 6, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on tubeless steel disc wheels from Brazil. The review covers one producer/exporter, Borlem, and the period May 1, 1988 through April 30, 1989. We have now completed that review and determine that there is no dumping margin for Borlem.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Britt Doughtie or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 50341) the preliminary results of its administrative review of the antidumping duty order on tubeless steel disc wheels from Brazil (May 28, 1987; 52 FR 19903). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of tubeless steel disc wheels, designed to be mounted with pneumatic tires which have a rim diameter of 22.5 inches or greater, suitable for use on class 6, 7, and 8 trucks, including tractors, and for use on semi-trailers and buses.

Through 1988, such merchandise was classifiable under item number 692.3230 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under item number 8716.90.50 of the *Harmonized Tariff Schedule* (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period May 1, 1988 through April 30, 1989 and one company, Borlem S.A. Empreendimentos Industriais (Borlem), a manufacturer/exporter of this merchandise to the United States.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the petitioner, The Budd Company, Wheel and Brake Division (Budd), and from the respondent, Borlem.

Comment 1: Petitioner challenges the inclusion of such costs as indirect labor, fringe benefits of indirect labor, depreciation, and similar fixed costs in the calculation of the difference-in-merchandise (difmer) adjustment used in the preliminary results of this administrative review. Since the difmer adjustment is generally based on variable manufacturing costs and direct factory overhead, the Department should disallow those fixed costs which were erroneously labeled as variable by the respondent. The petitioner further submits that it is impossible to relate fixed costs like those included in the respondent's difmer adjustment directly to the physical differences in the comparison wheels. Rather, these costs constitute fixed operating expenses of the wheel plant and the attempt to create so-called variable factory overhead out of fixed overhead constitutes nothing more than an arbitrary assignment of costs.

Petitioner also argues that the Department did not verify respondent's allegation that variations between the physical characteristics of different model wheels produce a direct or cognizable effect upon the price of those wheels and that the Department failed to establish a rational link between the alleged variable costs associated with different wheel models and the costs derived from respondent's accounting system. Finally, petitioner contends that respondent's record of costs associated with direct material and direct labor is based on hypothetical allocations and that the Department's reliance upon those factors as support for its difmer adjustment is misplaced. Therefore, petitioner submits that the record cannot be deemed to support the grant of such adjustments for purposes of the final results in this administrative review.

Respondent argues that the costs in question represent processing costs and are allocated by the firm to each wheel on the basis of the standard processing time for each particular wheel as recorded at each cost center. All of the costs provided were actual costs which can be traced through the relevant cost center back to the cost of goods sold on the financial statement.

Contrary to petitioner's assertion, respondent argues, there was no "hypothetical" allocation of variable costs: Variable costs were included in the cost centers where they were incurred and allocated to specific products based on actual production times. Respondent further argues that standard processing time for each wheel is directly related to the physical characteristics of each wheel. Therefore, the differences in standard processing time and, as a result, the differences in processing costs, are directly related to the differences in the merchandise under consideration. Lastly, respondent clarifies that depreciation was not included in the difmer adjustments submitted with the response.

Department's position: It is the Department's practice to make difmer adjustments on the basis of differences in material, labor, and variable factory overhead costs attributable to any physical differences in merchandise (*see, e.g.*, 19 CFR 353.57). As a general rule, the Department considers variable factory overhead costs to be those cost items which are a function of the production levels. Fixed factory overhead costs, on the other hand, will not vary as production levels increase or decrease.

In its preliminary results the Department accepted the respondent's breakdown of fixed and variable costs for its difmer adjustment, including the costs questioned by the petitioner. As the respondent correctly notes, depreciation was not included in its difmer adjustment or in the Department's preliminary results. However, in the case of insurance for factory, water expenses, third party maintenance services, and equipment rental, the Department has reconsidered its position and determined that these costs should properly be considered as fixed costs, not variable costs as claimed by the respondent, since these expenses were incurred for the total operations of the company rather than a specific product. Therefore, in these final results, these costs were eliminated from the difmer adjustment.

In addition, for the remaining items at issue, the Department believes that if different items being compared require different amounts of production time (attributable to physical differences), then an adjustment should be made to take into account these cost differences. For this reason, the Department has concluded that sufficient evidence was provided that indirect labor and fringe benefits of indirect labor are variable costs that are appropriately included in the difmer adjustment.

Comment 2: Petitioner alleges that the Department failed to develop a methodology, supported by substantial evidence, that determines the amount of ICM and IPI taxes which are actually passed through to home market consumers in Brazil. Petitioner argues that the mere designation of certain taxes as line items on commercial invoices does not establish that the full amount of those taxes has been passed-through to home market purchasers. Petitioner contends that the Department, in order to fulfill its statutory obligations, must place the burden of producing adequate evidence of the degree to which these taxes are absorbed by home market customers in the form of increased prices upon the respondents. Failing to do so, the Department should use best information available and assume that ICM and IPI taxes are not passed through to home market customers.

The respondent argues that if there were not full pass through of the ICM tax, then the prices charged by respondent to customers in different states would vary according to the ICM tax of each state. This is not the case: respondent does not maintain different price structures for different states. Also, respondent claims that, since both the IPI and ICM are essentially value added taxes, the liability for such taxes is the difference between the liability accrued on sales and the liability accrued on purchases. Consequently, the pass through issue is only relevant to the net incremental amount of any tax owing, not the full amount. Lastly, respondent argues that as the price paid to Borlem in the home market is made up of the distinct elements of wheel price, IPI tax, and ICM tax, the price is distinct from the taxes on the sale.

Department's position: The Department verified that the price invoiced by the respondent includes the three distinct elements of (1) price of the wheel; (2) IPI tax on the sale of the wheel, which is a fixed percentage of the invoiced price; and (3) ICM tax on the sale of the wheel, which is a tax based on the destination of the merchandise. We agree with respondent that, if there were less than full pass through of the ICM tax, then the prices charged by respondent to customers in different states would tend to vary according to the ICM tax of each state, which does not occur. Since the amount paid by respondent's customers includes each of these distinct and separate amounts, there is no reason to believe that these taxes were not fully passed through to home market customers.

Comment 3: Petitioner alleges that respondent has artificially manipulated the foreign market value (FMV) of its Model 3107 and Model 3108 wheels sold in its home market in order to reduce or eliminate the dumping margin in this case. Petitioner argues that, in order for the Department to obtain a valid comparision of U.S. price (USP) and RMV, the Department has an affirmative duty to expand its investigation, in accordance with 19 U.S.C. 1677b(a)(1) and 1677b(a)(5), to include an examination of all forms of tubeless steel disc wheels sold in the home market that are included in the scope of the order. Petitioner argues that the Department should consider evidence of certain price trends which indicate a reduction of the amount by which the foreign market value of such or similar merchandise (e.g. Model 3107 and Model 3108) exceeds the U.S. price of the merchandise under review. At the very least, petitioner contends that the Department should endeavor to rely upon a wider sampling of such or similar merchandise as the basis for its FMV comparisons.

Petitioner states that it is impossible for the petitioner to provide the Department with detailed information concerning relative or absolute price movements because of the exclusive nature of the Department's possession of proprietary business information. In fact, under the Administrative Procedure Act (APA), the Department must assume the burden of proof in respect to the

propriety of its proposed determination. This statute prohibits the Department from requiring a petitioner to prove that a fictitious market has been created.

Respondent argues that petitioner's allegations of a fictitious market ignore commercial reality, because there is clearly no commercial incentive for the respondent to suppress the prices of its comparatively higher volume home market sales to eliminate hypothetical margins in the U.S. market, which is a much smaller market. Respondent further maintains that fictitious market allegations are generally considered in the opposite situation, where an exporter, in response to an antidumping order, has created, in the home market, a small, commercially unsustainable set of sales in another form of the product to serve as the basis for the Department's FMV comparisons. Respondent contends that its sales of the 3107 and 3108 wheels are made to a viable and well-established market in Brazil, and that these sales were being made long before the Department imposed an antidumping order on tubeless steel disc wheels.

Respondent also points out that the petitioner urges the Department to compare price movements in the home market with price movements for respondent's export sales. This is clearly not the focus of the fictitious market exception, under which the Department's practice has been to examine only home market prices.

Lastly, respondent argues that there is no evidence on the record that price movements for sales of 3107 and 3108 wheels are at all suspicious or "artificially suppressed." In fact, a comparison of the foreign market value for 3107 and 3108 wheels between this and the first administrative review indicates that prices for these wheels have steadily increased.

Department's position: We agree that the Department cannot require the petitioner to prove that a fictitious market was created. However, before pursuing an allegation, the Department must have sufficient evidence to believe that there have been different movements in the prices at which different forms of the subject merchandise have been sold in the home market, see 19 U.S.C. 1677b(a)(5). As respondent correctly noted, there is no commercial incentive for the respondent to suppress the prices of its comparatively higher volume home market sales to eliminate hypothetical margins in the much smaller U.S. market. In this case, we agree with respondent and determine that petitioner has failed to provide any specific evidence supporting its claim that respondent artificially suppressed the home market prices of the merchandise under investigation while at the same time increasing its prices on other forms of the subject merchandise. Therefore, based on our examination of the petitioner's allegations and the information submitted by the respondent, we conclude that there is insufficient basis to investigate further whether sales by respondent were intended to establish a fictitious market under 19 U.S.C. 1677b(a)(5).

Comment 4: Petitioner argues that the Department should have used home market model 3046, instead of models 3107 and 3108, for comparsion to U.S. models 2705 and 2835. Petitioner states that evidence submitted in this administrative review demonstrated that there are absolutely no technical variables from which it would be reasonable to conclude that the 3107 and 3108 model wheels constitute a more similar product for comparison with the 2705 and 2835 model export wheels than does the 3046 model wheel that is sold in the foreign market. Petitoner concludes that the Department should select the model 3046 wheel as the home market comparison product in its final results; if this wheel is not used, the Department's final results should contain an explanation, supported by citation to the administrative record, describing the statutory criteria used to analyze and select such or similar merchandise in this review.

Respondent cites the reasons why the 3107 and 3108 wheels provide the most appropriate basis for comparison with the 2705 and 2835 export models, including similarity in physicial characteristics and material inputs, and points out that the 3046 model wheel is not produced in commerical quantities and would therefore represent an inappropriate choice for comparison with U.S. sales.

Department's position: It is the Department's practice, in accordance with 19 U.S.C. 1677(16), to select the identifical, or, in the absence of identical, the most similar home market merchandise for comparison with each U.S. model. The same 3107 and 3108 model wheels were selected for comparison in the first administrative review of this order. In this review, during verification, the Department both examined technical documentation associated witth the production of the wheels subject to review, and made a visual inspection of comparison wheels. The Department found that the 3107 and 3108 model wheels have more similar production processes to U.S. models 2705 and 2835 than model 3046 home market wheels. In addition, the steel blank input needed to produce the 3107 and 3108 model wheels, which represents the major input material cost, is significantly closer in weight to the U.S. models. Moreover, upon visual inpsection, model 3107 and 3108 wheels more closely resembled the U.S. models. Petitioner has provided no basis for determining that the 3046 model wheel is more similar than models 3107 and 3108 to the export models. Therefore, based on the similarity of production processes, the more similar size of the material input, and the closer physical resemblance, the Department continues to find that home market models 3107 and 3108 are the most similar to U.S. models 2705 and 2835.

Comment 5: Petitioner argues that the Department's use of daily exchange rates for currency conversion causes FMV to be substantially understated. If the Department continues to rely on daily exchange rates, the Department will exceed the scope of its statutory authority. Petitioner maintains that, in the absence of certified rates from the Federal Reserve Bank, or official rates from the U.S. Treasury, the Department should apply the monthly exchange rates compiled by the International Monetary Fund (IMF).

Respondent disagrees with the petitioner, stating that the IMF monthly rates submitted by the petitioner and the daily rates used by the Department are consistent, as evidenced by the fact that if one compares the end of the month exchange rates in the IMF table with the Central Bank of Brazil daily exchange rates, it is clear that the daily exchange rate for the last day in each month in the Central Bank of Brazil's table is identical to the end-of-the-month exchange rates in the IMF table.

Department's position: Section 353.60 of the Department's regulations and 31 U.S.C. 5151(c) direct the Department to use the exchange rate certified by the Federal Reserve Board. The Federal Reserve Board certifies the quarterly exchange rate, unless the daily exchange rate varies from the quarterly rate by more than five percent. In the case of Brazil, the Federal Reserve Board does not certify exchange rates. The Department, therefore, has the discretion to determine the appropriate exchange rates to be used. As the regulations imply, the use of daily exchange rates is preferred in the event of such exchange rate fluctuations as occurred in Brazil throughout the review period. The Department finds it more appropriate to convert the home market sales into dollars using the exchange rate in effect on the date of the U.S. sale

rather than average monthly or quarterly rates.

Comment 6: Petitioner asserts that the Department, at the request of the respondent, withheld two verification exhibits from disclosure under administrative protective order.

Department's position: The witholding of two verification exhibits was an oversight which was promptly corrected.

Comment 7: Respondent states that the Department's preliminary determination did not properly adjust for the differences in merchandise between respondent's domestic and export wheels. Specifically, respondent states that it does not appear that the adjusted monthly prices in the Department's FMV calculations reflect the wheel-specific difference-in-merchandise adjustments.

Department's position: This comment is now moot since the difmer adjustments in the final results have changed from those used in the preliminary results. See the Department's response to comment 1.

Comment 8: Respondent argues that the Department's preliminary results overestimated respondent's foreign market value by converting the monthly weighted average home market value into U.S. dollars using the exchange rate on the date of the U.S. sale. Respondent states that in a hyper-inflationary economy, such as Brazil's, this methodology produces distorted FMVs. Furthermore, it deviates from the Department's conversion methodology in the first administrative review and should, therefore, be corrected in this Department's final results. According to the petitioner, the use of the exchange rate on the date of the U.S. sale would be appropriate for converting foreign market value in these circumstances only if the Department was comparing a U.S. sale with home market sales that occurred on the same day as the U.S. sale. However, where the Department is calculating a monthly weighted average in a hyper-inflationary economy for all the respondent's home market sales during a month, the Department needs to use a conversion methodology that does not ignore the significant devaluation of the cruzeiro during the month.

According to the petitioner, the methodology used by the Department follows the Department's regulations which require the conversion of currencies at the exchange rate in effect as of the date of the U.S. sale being compared (19 CFR 353.60). Petitioner adds that in the current review, the Department has found no dumping margin, and since there is no margin, it is impossible to make a finding that a margin was created solely on account of the exchange rate used. Therefore, petitioner argues, the Department is justified in applying the currency conversion regulation which is used in almost every administrative review.

Petitioner also argues that the Department's currency conversion methodology deters the possibility of sales price manipulation, and that respondent's suggested methodology leaves this comparison open to manipulation by a manufacturer who can control the sales of his product on a monthly basis to take advantage of predictable currency patterns, rather than engaging in cost-driven pricing. Respondent, petitioner comments, could control the U.S. dollar denominated price by controlling the date of sale in the home market. Petitioner goes on to reason that this possibility of manipulation was one of the situations the Department was trying to prevent when it promulgated regulations mandating the use of a weighted average foreign market value.

Department's position: The respondent's argument may have merit in instances when exchange rate distortions result in margins that otherwise would not exist. In this case, however, since the Department found no margins using the conversion methodology prescribed in 19 CFR 353.60, the issue is moot.

Final Results of the Review

As a result of our review, we determine that there is no dumping margin for Borlem for the period May 1, 1988 through April 30, 1989.

The Department will instruct the Customs Service to liquidate, without regard to antidumping duties, entries made by Borlem in the period of May 1, 1988 through April 30, 1989.

Further, as provided for by section 751(a)(1) of the Tariff Act, no cash deposit of estimated antidumping duties shall be required for this firm. For any future entries of tubeless steel disc wheels from a new exporter not covered in this or in prior reviews, whose first shipment occurred after April 30, 1989, and who is unrelated to the reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Brazilian tubeless steel disc wheels designed to be mounted on pneumatic tires which have a rim diameter of 22.5 inches or greater, suitable for use on class 6, 7, and 8 trucks, including tractors, and for use on semi-trailers and buses entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 29, 1991.

Eric I. Garfinkel,

Assistant Secretary for Impact Administration.

[FR Doc. 91-8053 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-DS

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserve

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for: the Padilla Bay (Washington), Apalachicola Bay (Florida), and Chesapeake Bay (Maryland) National Estuarine Research Reserves (NERRs). Evaluations of the National Estuarine Research Reserves are conducted pursuant to section 315(f) of the CZMA, which requires the periodic review of the performance of each reserve with respect to its operation and management. The NERRs evaluated were found to be implementing their federally approved management plans, and adhering to the terms of their financial assistance awards. A copy of these findings may be obtained upon request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235 (202/673-5104).

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: March 25, 1991.

John J. Carey,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 91-8076 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-08-M

Intent to Evaluate Performance

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Notice of intent to evaluate.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), announces its intent to evaluate from April 1 through June 30, 1991, the performance of several state coastal management programs (CMP) and National Estuarine Research Reserves (NERRs). The following lists the states and reserves to be evaluated and the dates of the site visit: American Samoa, May 13–17, 1991; Maryland, June 10–14, 1991; North Carolina, June 24–28, 1991; and the Old Women Creek (Ohio), NERR June 24–28, 1991. Evaluation of coastal management programs and national estuarine research reserves will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), which requires a continuing review of the performance of coastal states with respect to coastal management. The CZMA requires detailed findings regarding the extent to which the state has implemented and enforced the coastal management program approved by the Secretary of Commerce, addressed the coastal management needs identified in section 303(2)(A) through (K) of the CZMA, and adhered to the terms of any grant, loan or cooperative agreement funded under the CZMA. The CZMA also requires detailed findings for NERRS regarding how the State is implementing the federally approved reserve management plan. The reviews involve consideration of public comments, a site visit to the state, and consultations with interested Federal, state and local agencies and with members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given on the date, time and location of a public meeting(s) for each of the site visits.

(1) The public meeting for the American Samoa evaluation will be May 15, 1991, at 5 p.m. at the Rainmaker Hotel, Pago Pago, American Samoa.

(2) The public meeting(s) for the Maryland evaluation will be June 10, 1991, at 7 p.m. at the Tawes State Office Building, Annapolis, and June 12, 1991, at 7 p.m. at the Easton Community Center, Talbot County.

(3) The North Carolina public meeting will be June 26, 1991, at 7 p.m. at the Auditorium, Duke University Marine Laboratory, Beaufort, North Carolina.

(4) The public meeting for the Old Women Creek NERR, Ohio, will be June 25, 1991, at 7 p.m. at the Old Women Creek NERR Interpretive Center, 1514 Cleveland Road East, Huron, Ohio.

The respective states also will issue notice of these meetings 15 days prior to the site visit in local newspapers. Copies of each state's most recent performance report, as well as OCRM's notification and supplemental information request letter to the state, are available upon request from the OCRM. Written comments from all interested parties on each of these programs are encouraged at this time. Public comment will be accepted until seven days after the site visit. Please direct comments to Vickie Allin (see further information contact below). OCRM will place a subsequent notice in the **Federal Register** announcing the availability of the Final Findings based on each evaluation.

FOR FURTHER INFORMATION CONTACT: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235 (202/673–5104).

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: March 25, 1991.

John J. Carey,

Deputy Assistant Administrator, for Ocean Services and Coastal Zone Management.

[FR Doc. 91–8077 Filed 4–4–91; 8:45 am]

BILLING CODE 3510–08–M

National Marine Fisheries Service; Marine Mammals; Application for Permit; NMFS, Southeast Fisheries Center (P77#51)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. Applicant: Dr. Bradford Brown, Director, Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149.

2. Type of Permit: Scientific research.

3. Name and Number of Marine Mammals:

50 saddleback dolphin (*Delphinus delphis*)
50 pygmy killer whale (*Feresa attenuata)*
50 short-finned pilot whale (*Globicephala macrorhynchus*)
50 Risso's dolphin (*Grampus griseus*)
50 Fraser's dolphin (*Lagenodelphis hosei*)
50 killer whale (*Orcinus orca*)
50 melon-headed whale (*Peponocephala electra*)
50 false killer whale (*Pseudorca crassidens*)
50 pan-tropical spotted dolphin (*Stenella attenuata*)
50 short-snouted spinner dolphin (*S. clymene*)
50 striped dolphin (*S. Coeruleoalba*)
50 Atlantic spotted dolphin (*S. frontalis)*
50 long-snouted spinner dolphin (*S. longirostris*)
50 rough-toothed dolphin (*Steno bredanensis*)
50 bottlenose dolphin (*Tursiops truncatus*)
50 pygmy sperm whale (*Kogia breviceps*)
50 dwarf sperm whale (*K. simus*)

4. Type of Take: The applicant proposes to take tissue samples via projectile biopsies for analysis of blubber tissue for anthropogenic lipophilic chemical contamination and to archive skin samples collected incidentally for eventual examination of genetic variation via mtDNA-based analyses from all cetacean species that are likely to be encountered during the Southeast Fisheries Center-sponsored Gulf of Mexico marine mammal survey cruises over the next five (5) years. A maximum of 50 individuals per year per species will be samples. A maximum of 200 bottlenose dolphins per year will be sampled in conjunction with low-level monitoring of bottlenose dolphin stocks. It is unlikely that all species listed above will actually occur.

5. Location and Duration of Activity: Gulf of Mexico and throughout the Southeast Region beginning May 1, 1991 through October 1, 1995.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7234, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not

necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910; and Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702 (813/893-3141).

Dated: April 1, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 91-7960 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service Advisory Board

Advisory Board; Open Meeting

AGENCY: National Technical Information Service.

SUMMARY: The Advisory Board was established by statute (Pub. L. 100-519) on October 24, 1988, and received its charter on September 15, 1989. Its function is to advise the Secretary of Commerce and the Director of the National Technical Information Service on the general policies and operations of the National Technical Information Service (NTIS), including policies in connection with fees and charges for its services.

TIME AND PLACE: April 22, 1991 from 2 p.m. to 5 p.m. and April 23, 1991 from 9 a.m. to 5 p.m. The meeting will take place at NTIS, 5285 Port Royal Road, room 2029, Springfield, Virginia 22161.

Agenda

1. Organization and Goals of the Advisory Board.
2. Review of Functions, Products, and Services of NTIS.
3. Resource Issues.
   - 3.1 Pricing of Products and Services.
   - 3.2 Cost Recovery and Appropriations.
4. Responsiveness to Customer Requirements and Priorities.
   - 4.1 Product and Service Quality.
   - 4.2 Product and Service Mix.
5. NTIS Role in Government Information Dissemination.
   - 5.1 Acquisition of Products.
   - 5.2 Services to Other Agencies.
6. Modernization and Directions for Future Development.

PUBLIC PARTICIPATION: The meeting will be open to public participation and the last thirty minutes each day will be set aside for oral comments or questions. Approximately twenty seats will be available for the public including five seats reserved for the media. Seats will be available on a first-come first-served basis. Any member of the public may submit written comments concerning the committee's affairs at any time before and after the meeting. Copies of the minutes of the meeting will be available within thirty days from the address given below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Freeman, Information Technology Manager, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: (703) 487-4778. Fax: (703) 487-4009.

Dated: March 27, 1991.

Joseph F. Caponio,

Director, National Technical Information Service.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

April 1, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 8, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-9480. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain textile products are being adjusted, variously, for swing and carryforward used during the previous agreement period.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 25660, published on June 25, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

April 1, 1991

Commissioner of Customs
Department of the Treasury
Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 19, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1990 and extends through June 30, 1991.

Effective on April 8, 1991, you are directed to amend the June 19, 1990 directive to adjust the limits for the following categories, as provided under the terms of the current bilaterial agreement between the Governments of the United States and Indonesia:

Category	Adjusted twelve-month limit [1]
Levels not in a group:	
219	5,023,502 square meters.
314	34,822,416 square meters.
317/617/326	14,953,634 square meters of which not more than 2,349,804 square meters shall be in Category 326.
341	569,226 dozen.
635	107,393 dozen.
641	1,443,007 dozen.
645/646	441,867 dozen.
648	1,441,154 dozen.
Sublevels in Group II:	
619/620	5,103,900 square meters.
634	48,504 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-8050 Filed 4-4-91; 8:45 am]

BILLING CODE 3510-DR-M

Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States: Changes to the 1991 Correlation

March 29, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Changes to the 1991 Correlation.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–3400.

SUPPLEMENTARY INFORMATION: The Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States (1991) presents the Harmonized Tariff Schedule (HTS) numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the administration of the bilateral agreements program. The following list includes HTS numbers that have been published in the Harmonized Tariff Schedule of the United States (1991). The 1991 Correlation should be amended as follows to reflect administrative changes included in the Harmonized Tariff Schedule as a result of Presidential Proclamations which were effective on February 6, 1991:

Category	Changes in the 1991 Correlation
363	Delete 6307.90.8740. Add 6307.90.8640.
369	Delete 6307.90.8710. Add 6307.90.8610. Delete 6307.90.9545. Add 6307.90.8645.

In the notice published in the **Federal Register** on February 4, 1991, beginning on page 4270, descriptions for certain Harmonized Tariff Schedule numbers should be corrected as follows:

Category	Descriptions
359	6505.90.1525—Line 4: insert "for" before "babies." 6505.90.1540—Line 1: replace "visors" with "cotton hats."
459	6505.90.3045—Line 1: delete "Other than babies." Line 4: insert ", other than for babies" at the end of line. 6505.90.3090—Line 1: replace "wool visors, and headgear" with "wool hats, and other headgear." 6505.90.4045—Line 1: replace "Other than babies," with "Wool." Line 4: insert ", other than for babies" at end of line. 6505.90.4090—Line 1: replace "woven visors and headgear" with "wool hats and other headgear."
659	6505.90.5090—Line 1: replace "visors and headgear" with "hats and other headgear." 6505.90.6045—Line 1: insert "knitted or crocheted" before "visors." 6505.90.6090—Line 1: replace "visors and headgear" with "hats and other headgear." 6505.90.7045—Line 1: insert "Not knitted or crocheted," before "MMF visors." 6505.90.7090—Line 1: replace "Other MMF visors and headgear" with "Other than MMF hats and other headgear." 6505.90.8050—Line 1: insert "Not knitted or crocheted" before "MMF visors." 6505.90.8090—Line 1: insert "Not knitted or crocheted" before "MMF visors."
859	6505.90.2590—Line 4: insert "not knitted cotton or flex headgear" at end of line.

Augie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–7986 Filed 4–4–91; 8:45 am]

BILLING CODE 3510–DR–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the procurement list commodities and services to be furnished by nonprofit agencies employing the blind or other severely handicapped.

EFFECTIVE DATE: May 6, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On January 4 and February 15, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 420 and 6374) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the Following Commodities and Services Are Hereby Added to the Procurement List

Commodites

Case and Ear Plub Inserter, 6516–01–100–1674.

Wash Kit Assembly, 7360–00–139–1063.

Bag, Parts, 8105–LL–B00–0208, 8105–LL–B00–0209, 8105–LL–B00–0210, 8105–LL–B00–9974, 8105–LL–B00–9975 (Requirements of Mare Island Naval Shipyard, CA).

Services

Janitorial/Custodial, Department of the Army, Coralville Reservoir, Coralville, Iowa.

Janitorial/Custodial, Internal Revenue Service Center, 3651 South Interregional Highway 35, Austin, Texas.

Sanding and Oiling of Picnic Tables, Deschutes National Forest, Bend Ranger District, Bend, Oregon.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–8037 Filed 4–4–91; 8:45 am]

BILLING CODE 6820–33–M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the procurement list commodities and services to be furnished by nonprofit agencies employing the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: may 6, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing the blind or other severely handicapped.

It is proposed to add the following commodities and services to the Procurement List.

Commodities

Slacks, Woman's, 8410–01–224–3326 thru -3367, 8410–01–105–4668 thru -4708.

Services

Commissary Shelf Stocking and Custodial, Fort Sill, Oklahoma.
Commissary Shelf Stocking and Custodial, Fort Hood, Texas.
Commissary Shelf Stocking and Custodial, Defense General Supply Center, Richmond, Virginia.
Janitorial/Custodial, Autec and Lubratorium, West Palm Beach, Maritime Building, Riveria Beach, Florida.
Operation of Supply Room, U.S. Corps of Engineers, Estes Kefauver Building, Nashville, Tennessee.

Beverly L. Milkman,
Executive Director.
[FR Doc. 91–8038 Filed 4–4–91; 8:45 am]
BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee Meeting

This is the given notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting in the Hearing Room on the basement level of the Commission's Washington, DC headquarters, 2033 K Street, NW., Washington, DC on April 22, 1991, beginning at 9 a.m. and lasting until 1:00 p.m. The agenda will consist of:

Agenda

1. Introductory remarks, Chairman Wendy L. Gramm, Commissioner Kalo A. Hineman;
2. Discussion of Chicago Board of Trade proposed amendments to increase grain futures speculative limits;
3. Discussion of pending request regarding wheat price "swap" transactions.
4. Status report on various ongoing studies of agricultural futures delivery issues;
5. Status report on CFTC legislative reauthorization;
6. Discussion of pending rulemaking proposals, including dual trading rules;
7. Status report on development of electronic trading cards; and
8. Other issues for committee consideration; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purposes and objectives of the Advisory Committee are more fully set forth in the May 9, 1989 third renewal charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Kalo A. Hineman, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Agricultural Advisory Committee c/o Donald H. Heitman, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Mr. Heitman in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on April 1, 1991.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 91–7984 Filed 4–4–91; 8:45 am]
BILLING CODE 6351–01–M

Financial Products Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting on Tuesday, April 23, 1991 in the Hearing Room on the basement level of the Commission's Washington, DC headquarters, 2033 K Street NW., Washington, DC. This meeting will be held between 1:30 p.m. and 5 p.m. The agenda consists of the following:

1. Welcoming remarks;
2. Discussion of pending legislation that would authorize the Commission to exempt various categories of financial instruments from the requirements of the Commodity Exchange Act and exclude certain hybrid commodity instruments from the Commission's jurisdiction;
3. Discussion concerning regulatory review of applications for contract market designation and other financial products;
4. Discussion of international clearing and settlement issues; and
5. Discussion of possible areas for future Committee consideration and any other business that may properly come before the Committee, including the timing of the next meeting.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on financial products issues. The purposes and objectives of the Advisory Committee are more fully set forth in the April 28, 1989 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Chairman William P. Albrecht, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of

business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Nancy E. Yanofsky, Esq., Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, to be received prior to the date of the meeting. Members of the public who wish to make oral statements should also inform Ms. Yanofsky in writing at the above address at least three days prior to the meeting. Provision will be made, if time permits, for an oral presentation of reasonable duration.

Issued by the Commission in Washington, DC, on April 1, 1991.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91-7985 Filed 4-4-91; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DIA Advisory Board; Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been scheduled as follows:

DATES: Tuesday, April 23, 1991 (9 a.m. to 5 p.m.)

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John G. Sutay, USAF, Chief, DIA Advisory Board, Washington, DC 20340-1328, (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting will be devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Third World Emerging Technologies.

Dated: April 2, 1991.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-8022 Filed 4-4-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Platform Panel of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 22-25 Apr 91 from 8 a.m. to 5 p.m. at the Tactical Fighter Weapons Center, Nellis AFB, NV.

The purpose of this meeting is to receive presentations on Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1), and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4648.

Patsy J. Conner

Air Force Federal Register Liaison Officer.

[FR Doc. 91-8055 Filed 4-4-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Fusion Panel of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 23-25 Apr 91 from 8 a.m to 5 p.m. at Anser Corp, 1215 Jefferson Davis Highway, Arlington, VA.

The purpose of this meeting is to receive presentations of Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-8056 Filed 4-4-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Communications Panel of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 1-3 May 91 from 8 a.m. to 5 p.m. at Anser Corp, 1215 Jefferson Davis Highway, Arlington, VA.

The purpose of this meeting is to receive presentations of Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-8057 Filed 4-4-91; 8:45 am]

BILLING CODE 3910-01-M

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program Between the Department of Veterans Affairs and the Department of Defense

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Notice of a computer matching program between the Department of Veterans Affairs (VA) and the Department of Defense (DoD) for public comment.

SUMMARY: The DoD, as the matching agency under the Privacy Act of 1974, as amended (5 U.S.C. 552a), is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between VA and DoD that their records are being matched by computer. The purpose of the match is to identify disability compensation recipients who return to active duty and to insure benefits are adjusted or terminated, if appropriate, and steps taken to collect any resulting overpayment.

DATES: This proposed action will become effective May 6, 1991, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 400 Army Navy Drive, room 205, Arlington, VA 22202-2884. Telephone (703) 614-3027.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DoD and VA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data between the agencies to identify disability compensation recipients who have returned to active duty and are therefore ineligible to receive VA compensation.

The parties to this agreement have determined that a computer matching program is the most efficient, effective and expeditious method of obtaining and processing the information needed to identify VA disability compensation recipients who have returned to active duty and are no longer eligible to receive VA disability compensation. The principal alternative to using a computer matching program for identifying such employees would be a manual comparison of all records of disability compensation recipients with the records of all active duty military members, including full-time National Guard and Reserve personnel.

This match is the only way to identify such individuals if a veteran does not report his or her own return to active duty.

Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion on the personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best choice and least obtrusive manner for accomplishing this requirement.

A copy of the computer matching agreement between VA and DoD is available upon request to the public. Requests should be submitted to the address caption above or to the Chief Benefits Director, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Set forth below is a notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on Computer Matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching agreement as required by 5 U.S.C. 552a(r) and an advance copy of this notice was submitted on March 27, 1991, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records about Individuals," dated December 12, 1985 (50 FR 52738, December 24, 1985). This matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: April 2, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Computer Matching Program Between the Department of Veterans Affairs and the Department of Defense for Verification of Disability Compensation

A. *Participating agencies:* Participants in this computer matching program are: Veterans Benefits Administration, Department of Veterans Affairs (VA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The VA is the source agency, i.e., the agency disclosing the records for the purpose of the match. The DMDC is the specific recipient agency or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* The purpose of the matching agreement is to identify disability compensation recipients who return to active duty and to insure benefits are adjusted or terminated, if appropriate, and action taken to collect any resulting overpayment.

Regulations prohibit payment of VA benefits to military members on active duty. VA has the obligation to police and verify whether or not a veteran is on active duty, including full-time National Guard and Reserve duty, and to insure the member has been discharged before benefits are paid. If a veteran returns to duty at a later date, VA must also terminate any active account.

Based on experience, VA and DMDC expect a computer matching program is the most effective and expedient way to identify disability compensation recipients who have returned to active duty. The VA expects to save approximately $242,000 per year as a result of this match.

c. *Authority for conducting the match:* 38 U.S.C. 3104(c), Prohibition Against Duplication of Benefits, contains the legal authority for conducting the matching program.

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

1. The VA will use the system of records identified as 58 VA 21/22, Compensation, Pension, Education and Rehabilitation Records—VA, published on February 9, 1987, in the Privacy Act Issuances, 1987 Compilation, Volume V, pages 808–812, as amended on September 5, 1989, at 54 FR 36933, and on July 11, 1990, at 55 FR 28508. The system of records notice contains an appropriate routine use for disclosure for this purpose. The records contain information on approximately 2.2 million disability compensation recipients.

2. The DoD system of records is S322.10 DMDC, Defense Manpower Data Center Data Base, published at 55 FR 42755 (October 23, 1990). The DMDC files contain information on 2 million active duty military members, including full-time National Guard and Reserve personnel.

E. *Description of computer matching program:* DMDC will compare information from the VA file with the active duty files.

The files to be provided by VA contain the name, Social Security Number, VA file number, date of birth, branch of service, entered on duty date, unit identifier code, and unit address (for unit identifier code).

The data elements to be used from the DMDC files are Social Security Number, name, branch of service, unit designation, and date of entry on active duty.

Records matching on the Social Security Number will be sent to the Veterans Benefits Administration which will screen the initial data, verify that the matched data are consistent with the source file, and resolve any discrepancies or inconsistencies on an individual basis. The Veterans Benefit Administration will be responsible for making final determinations as to eligibility for benefits or verifying any other information with respect thereto.

The listings will be sorted by VA file number by Regional Office number and mailed to the VA Central Office. VA will then take necessary action to terminate compensation payments to any benefit recipient identified as being on active duty or to collect any overpayment paid to recipients who had previously returned to active duty. Each individual identified as having returned to active duty and being ineligible for disability compensation will be afforded all aplicable due process standards including, but not limited to, being given an opportunity to contest the findings and proposed actions.

F. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary detemination, then this computer matching program becomes effective. The respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time. Under no circumstances shall the matching program be implemented before this 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between VA and DoD, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, 400 Army Navy Drive, Room 205, Arlington, VA 22202–2884. Telephone (703) 614–3027.

[FR Doc. 91–8021 Filed 4–4–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Teleconference meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Achievement Levels Committee of the National Assessment Governing Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: April 19, 1991.

TIME: 11 e.d.t.

PLACE: National Assessment Governing Board, suite 7322, 1100 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Director, National Assessment Governing Board, suite 7322, 1100 L Street, NW., Washington, DC, 20005–4013. Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 USC 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. It is responsible for developing specifications for test design and methodology and for developing guidelines and standards for analysis plans and for reporting and disseminating results. The Board also has responsibility for selecting subject areas to be assessed, identifying achievement goals for each age and grade tested, and establishing standards and procedures for interstate, regional, and national comparisons. The Achievement Levels Committee of the National Assessment Governing Board will meet via teleconference on April 19, 1991, from 11 a.m. e.d.t., until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The purpose of this meeting is to review progress on the replication/validation meetings and to approve the work statement for the RFPs for level-setting activities in reading, writing, and math for 1992.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assesment Governing Board, Suite 7322, 1100 L. Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m., Monday through Friday.

Dated: March 27, 1991.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 91–7991 Filed 4–4–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Announcement of Department of Energy's System Design Documentation for the Licensing Support System

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy (DOE) announces the availability of final computer system design documentation for the Licensing Support System. The documentation will be made available in FOI reading rooms at the DOE Headquarters building and at the Nevada Operations Office.

EFFECTIVE DATE: Documents will be available on March 20, 1991.

FOR FURTHER INFORMATION CONTACT: Daniel J. Graser, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, RW–12, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE), Office of Civilian Radioactive Waste Management, is making final computer system design documentation for the Licensing Support System (LSS) available to the public.

The LSS will be used to support the Nuclear Regulatory Commission's process for review of DOE's license application for construction of a geologic repository for high-level radioactive waste. It is an electronic information system intended to contain the documentary material of the license applicant, DOE, its contractors, and the documentary material of all other parties, interested governmental participants and potential parties and their contractors. The LSS will provide a mechanism for document discovery during the licensing proceedings, a means for the electronic submission of filings by the parties, and for the dissemination of findings of the Commission and its adjudicatory boards during the proceedings.

The system design documentation responds to a preliminary conceptual design developed for DOE under contract DE–AC01–87RW00084 and approved by DOE in 1988 for continued detailed design efforts. The documents available for public review include: the *Licensing Support System Search and Image Design Document: Volumes I and II*; the *Licensing Support System Communication System Design Document*; and, the *Licensing Support Capture System Design Document*. In addition, two volumes which discuss assumptions made in the design, the *Licensing Support System—System-Level Requirements Document* and a series entitled *White Papers for the Licensing Support System*, will be made available. No procurement actions by DOE, based on these design documents, are anticipated.

Documents are available in Departmental Freedom of Information

(FOI) Reading Rooms at the following locations:

U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6020, and,

U.S. Department of Energy, Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89193–8515, (702) 295–1128.

Availability for review and copying of this documentation will follow normal FOI Reading Room procedures.

Franklin G. Peters,

Deputy Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 91–8046 Filed 4–4–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Tennessee Gas Pipeline Co.; Tariff Filing

[Docket No. CP80–65–065, CP84–441–031 and RP88–228–000]

March 28, 1991.

Take notice that on October 1, 1990, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets to its FERC Gas Tariff to be effective November 1, 1990:

Second Revised Volume No. 1

Substitute Second Revised Sheet No. 82
Substitute First Revised Sheet No. 83
Substitute First Revised Sheet No. 84
Substitute First Revised Sheet No. 85
Original Sheet No. 85A
Substitute Second Revised Sheet No. 86
Substitute First Revised Sheet No. 87
Substitute First Revised Sheet No. 88
Substitute First Revised Sheet No. 89
Substitute Original Revised Sheet No. 89A
Substitute Second Revised Sheet No. 98
First Revised Sheet No. 99
First Revised Sheet No. 100
First Revised Sheet No. 101
Original Sheet No. 101A
Substitute Second Revised Sheet No. 102
First Revised Sheet No. 103
Second Revised Sheet No. 104
Substitute First Revised Sheet No. 104A
First Revised Sheet No. 105
Original Sheet No. 105A
First Revised Sheet No. 305
Original Sheet No. 305A
First Revised Sheet No. 320
Substitute First Revised Sheet No. 321
First Revised Sheet No. 322
First Revised Sheet No. 323
First Revised Sheet No. 324
Original Sheet No. 324A
Original Sheet No. 324B
Original Sheet No. 324C
First Revised Sheet No. 325
Substitute First Revised Sheet No. 326
First Revised Sheet No. 327
First Revised Sheet No. 328
First Revised Sheet No. 329
Original Sheet No. 329A
Original Sheet No. 329B
Original Sheet No. 329C

Tennessee states that the tariff sheets pertain to Tennessee's SST–E, FSST–E, and SST–NE and FSST–NE Rate Schedules and to the form of service agreement applicable to each of these rate schedules.

Tennessee further states that the tariff sheets reflect certain changes in the service rendered under these rate schedules as authorized by orders in Docket CP84–441–022 and CP80–65–061 issued June 2, 1988 (43 FERC 61,417), July 6, 1988 (44 FERC 61,013) and May 24, 1989 (47 FERC 61,254).

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–7994 Filed 4–4–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 91–12–NG]

Mobil Natural Gas Inc.; Application for Blanket Authorization to Export Natural Gas.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on February 12, 1991, as amended on February 20, 1991, of an application filed by Mobil Natural Gas Inc. (Mobil) for blanket authorization to export up to 100 Bcf of natural gas, including liquefied natural gas (LNG), to spot market purchasers in other countries, including, but not limited to, Canada, over a term of two years beginning on the date of first delivery. Mobil states that it would use existing pipeline facilities to export the gas, that some of the gas exported may be gas it has previously imported and that it may export the gas on its own behalf or as agent for producers and/or marketers.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC, at the address listed below no later than 4:30 p.m., May 6, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE 50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (301) 353–3168.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: Mobil is a Delaware corporation with its principal place of business in Houston, Texas. Mobil is a wholly owned subsidiary of Mobil Fairfax Inc. and is engaged in the business of marketing natural gas in the U.S. and Canada. If granted, the requested authorization would supersede Mobil's existing natural gas export authorization, issued to Mobil Gas Company, Inc., now merged with Mobil, in ERA Docket No. 88–23–NG, on July 5, 1988, DOE/ERA Opinion and Order No. 250. Mobil has not exported any gas under its existing authorization. Mobil states that it wishes to expand its existing authorization to include exports of LNG and foreign trading partners other than Canada, including in particular, Mexico.

Mobil states that the domestic gas exported would come from fields in various producing states and that all of its sales would be in non-U.S. markets. To the extent that Mobil exports gas it has imported under its existing blanket

authorization, Mobil asserts that such transactions will benefit the U.S. by increasing throughout efficiencies on U.S. pipelines. Mobil also asserts that the gas to be exported would be incremental to the needs of current purchasers of natural gas located in the U.S. and that it is virtually self-evident that there is no present national need for the gas to be exported.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these matters as they relate to the requested export authority. The applicant asserts that the proposed export authority would be in the public interest because it would facilitate short-term and spot market transactions and promote competition in the gas marketplace. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Mobil's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 28, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–8047 Filed 4–4–91; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. FE C&E 91–11; Certification Notice—79]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (FUA section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of proposed new electric base load powerplant has a filed self-certification in accordance with section 201(d). Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION:

The following company has a filed self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
City of Los Angeles Department of Water and Power, Los Angeles, CA.	03–25–91	Combine cycle	240	Wilmington, CA

Amendments to the FUA on May 21, 1987 (Pub. L. 100–42), altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

Copies of this self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, or for further information call Myra Couch at (202) 586–6769.

Issued in Washington, DC on April 1, 1991.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 91–8048 Filed 4–4–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3918–2]

Environmental Impact Statement and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 18, 1991 Through March 22, 1991 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076.

Summary of Rating Definitions

Environmental Impact of the Action

LO—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposals.

EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect that environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified now, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Final EISs

ERP No. F–BLM–J65058–MT, Sleeping Giant and Sheep Creek Wilderness Study Areas (WSAs) Recommendations, Wilderness or Nonwilderness Designation, Lewis and Clark County, MT.

Summary

EPA believes the BLM has revised its draft preferred alternative and elected to recommend that Sleeping Giant and Sheep Creek areas be designated as National Wilderness. EPA has no objections to BLM's final decision.

Dated: April 2, 1991.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 91–8040 Filed 4–4–91; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3918–1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed March 25, 1991 Through March 29, 1991 Pursuant to 40 CFR 1506.9.

EIS No. 910091, DRAFT EIS, CDB, NY, Rochester City School District's Carthage School #8 Replacement Project, Construction and Operation, CDB Grant, City of Rochester, Monroe County, NY, Due: May 20, 1991, Contact: Robert M. Barrows (716) 428–6924.

EIS No. 910092, DRAFT EIS, FHW, AK, College Road Widening and Upgrading, Between Aurora Drive and Johansen Highway, Funding and Section 404 Permit, Fairbanks, AK, Due: May 31, 1991, Contact: Steve Moreno (907) 586–7428.

EIS No. 910093, DRAFT EIS, AFS, CO, Conundrum Marble Quarry Reopening, Implementation, Maroon Bells-Snowmass Wilderness Area, Section 404 Permit, Pitkin County, CO, Due: May 24, 1991, Contact: Gretchen Merrill (303) 925–3445.

EIS No. 910094, DRAFT EIS, AFS, MT, Price Wise Timber Sale, Implementation, Beaverhead National Forest, Wise River Ranger District, Beaverhead County, MT, Due: May 31, 1991, Contact: Mike Ryan (406) 683–3932.

EIS No. 910095, FINAL EIS, NAS, Space Station Freedom Program, Design, Development and Operation, First Element Launch (FEL), Due: May 6, 1991, Contact: Lyn D. Wigbels (202) 453–8662.

EIS No. 910096, DRAFT EIS, FRC, OK, MS, AR, Oklahoma-Arkansas Natural Gas Pipeline Project, Construction, Operation and Transportation Section 10 and 404 Permits, NPDES Permit, Several Counties in OK, AR and MS, Due: May 24, 1991, Contact: Lonnie Lister (202) 208–2191.

EIS No. 910097, DRAFT EIS, UAF, CA, March Air Force Base Realignment, Implementation, 445th Air Force Reserve Military Airlift Wing, Riverside County, CA, Due: May 20, 1991, Contact: Deanne Meyer-Piesztruska (402) 294–3684.

EIS No. 910098, DRAFT EIS, USA, MD, VA, MD, Fort George G. Meade and Fort Holabird Comprehensive Base Realignment and Partial Closure, Implementation, Relocation from Fort Meade and Fort Holabird to Fort Belvoir, Fairfax County, VA and Anne Arundel and Baltimore Counties, MD, Due: May 20, 1991, Contact: Keith Harris (302) 962–4999.

Amended Notices

EIS No. 900092, DRAFT EIS, AFS, CO, KS, Pike and San Isabel National Forests/Comanche and Cimarron National Grasslands, Fifteen Years Oil and Gas Leasing Program, Implementation, Several, CO and KS, Due: April 30, 1990, Contact: Dan Bishop (719) 545–8737.

Published FR 03–16–90—Officially Withdrawn by Preparing Agency.

EIS No. 900342, DRAFT EIS, COE, CA, Port of Long Beach and Los Angeles Phase I 2020 Plan, Channel Improvements and Landfill Development, Implementation, Los Angeles County, CA, Due: March 30, 1991, Contact: John Bellinger (202) 272–0166.

Published FR 9–21–90—Officially Withdrawn by Preparing Agency. A Revised Draft EIS will be prepared.

EIS No. 910046, DRAFT EIS, AFS, CO, HD Mountains Coalbed Methane Gas Field Development Project, Construction and Operation, Application for Permit Drilling, 404 Permit and Special Use Permit, San Juan National Forest, Pine District, Archuleta and LaPlata Counties, CO, Due: April 22, 1991, Contact: Michael G. Johnson (303) 884–2512.

Published FR 02–22–91—Review period extended.

Dated: April 2, 1991.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 91–8039 Filed 4–4–91; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59293A; FRL 3888–5]

Certain Chemical; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–91–8. The test marketing conditions are described below.

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: Karen K. Pollard, New Chemicals Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, DC 20460, (202) 475–8993.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–91–8. EPA had determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–91–8:

1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME.

2. The Company must not release the substance into waters of the United States.

3. The Company may distribute the substance only to persons who agree in writing to not release the substance into waters of the United States.

4. The Company must affix a label to each container of the substance or formulations containing the substance. The label shall include, at a minimum, the following statement:

WARNING: Do not release this substance into waters of the United States. This substance may cause toxicity to aquatic organisms.

5. The applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

a. Records of the quantity of the TME substance produced and the date of manufacture.

b. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

c. Copies of the labels affixed to containers of the substance or formulations containing the substance.

d. Copies of the bill of lading that accompanies each shipment of the substance.

e. Copies of written agreements with customers pertaining to the release to water restrictions.

TME–91–8

Date of Receipt: February 19, 1991.

Notice of Receipt: March 5, 1991 (56 FR 9217).

Applicant: Stepan Company.

Chemical: (G) Sulfo esters amine salts.

Use: A lubricant and an antistatic agent for industrial applications.

Production Volume: 10,000 pounds.

Number of Customers: 6 companies.

Test Marketing Period: 1 1/2 years.

Risk Assessment: EPA identified concerns for acute aquatic toxicity based on structural activity relationship ("SAR") analysis of analogous substances. However, during manufacturing, processing, and use, the submitter is prohibited from releasing the substance into waters of the United States. In addition, the submitter will distribute the substance only to persons who agree in writing to comply with the same release to water restriction. Therefore, the Agency has determined that the test market activities will not

present an unreasonable risk to the environment.

EPA has not identified any significant human health effects associated with the substance. Therefore, the Agency has determined that the test marketing activity will not present an unreasonable risk to human health.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: April 1, 1991.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 91-8042 Filed 4-4-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-51761; FRL 3886-2]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 83 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 91-336, March 16, 1991.

P 91-503, April 28, 1991.

P 91-507, 91-508, 91-509, April 30, 1991.

P 91-548, May 7, 1991.

P 91-568, May 13, 1991.

P 91-569, 91-570, May 27, 1991.

P 91-591, 91-592, 91-593, 91-594, 91-595, 91-596, 91-597, 91-598, 91-599, 91-600, 91-601, 91-602, May 21, 1991.

P 91-603, 91-604, May 22, 1991.

P 91-605, 91-606, 91-607, 91-608, 91-609, May 25, 1991.

P 91-610, 91-611, 91-612, 91-613, 91-614, May 27, 1991.

P 91-615, 91-616, 91-617, 91-618, 91-619, May 28, 1991.

P 91-620, 91-621, May 29, 1991.

P 91-622, 91-623, June 1, 1991.

P 91-624, June 2, 1991.

P 91-625, 91-626, June 1, 1991.

P 91-627, 91-628, 91-629, 91-630, 91-631, 91-632, June 2, 1991.

P 91-633, 91-634, 91-635, 91-636, 91-637, 91-638, 91-639, 91-640, 91-641, 91-642, 91-643, 91-644, 91-645, June 3, 1991.

P 91-646, June 9, 1991.

P 91-647, 91-648, 91-649, 91-650, 91-651, 91-652, 91-653, 91-654, June 4, 1991.

P 91-655, 91-656, 91-657, 91-658, 91-659, 91-660, 91-661, June 8, 1991.

P 91-662, June 9, 1991.

P 91-663, June 8, 1991.

P 91-664, June 9, 1991.

Written comments by:

P 91-336, February 14, 1991.

P 91-503, March 29, 1991.

P 91-507, 91-508, 91-509, March 31, 1991.

P 91-548, April 7, 1991.

P 91-568, April 13, 1991.

P 91-569, 91-570, April 27, 1991.

P 91-591, 91-592, 91-593, 91-594, 91-595, 91-596, 91-597, 91-598, 91-599, 91-600, 91-601, 91-602, April 21, 1991.

P 91-603, 91-604, April 22, 1991.

P 91-605, 91-606, 91-607, 91-608, 91-609, April 25, 1991.

P 91-610, 91-611, 91-612, 91-613, 91-614, April 27, 1991.

P 91-615, 91-616, 91-617, 91-618, 91-619, April 28, 1991.

P 91-620, 91-621, April 29, 1991.

P 91-622, 91-623, May 2, 1991.

P 91-624, May 3, 1991.

P 91-625, 91-626, May 2, 1991.

P 91-627, 91-628, 91-629, 91-630, 91-631, 91-632, May 3, 1991.

P 91-633, 91-634, 91-635, 91-636, 91-637, 91-638, 91-639, 91-640, 91-641, 91-642, 91-643, 91-644, 91-645, May 4, 1991.

P 91-646, May 10, 1991.

P 91-647, 91-648, 91-649, 91-650, 91-651, 91-652, 91-653, 91-654, May 5, 1991.

P 91-655, 91-656, 91-657, 91-658, 91-659, 91-660, 91-661, May 9, 1991.

P 91-662, May 10, 1991.

P 91-663, May 9, 1991.

P 91-664, May 10, 1991.

ADDRESS: Written comments, identified by the document control number "(OPTS-51761)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm EB-44, 401 M St., SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 91-336

Importer. Kuraray International Corporation.

Chemical. (S) 2H-Pyram-2-one, tetrahydroxy-4-methyl-.

Use/Import. (S) Component of polyurethane. Import range: 1,000-30,000 kg/yr.

P 91-503

Importer. SNPE Inc.

Chemical. (S) 2-Propenoic acid 2-(((1-methylethoxy) carboxyl)amino) ethyl ester.

Use/Import. (S) Reactive diluent in ultraviolet or electron beam curing of lithographic inks. Import range: 10,000-30,000 kg/yr.

P 91-507

Importer. Marubeni America Corporation.

Chemical. (S) Mixture of pyridinium, 3-carboxy-1-[4-[(4-chloro-3-sulfophenyl)amino-6-[(5-hydroxy-6-[(4-methoxy-2-sulfophenyl)azo)-7-sulfo-2-naphthaleny)amino)-1,3,5-triazrin-2yl)-hydroxy, inner salt, potassium sodium salt, 2-naphthalenesulfonic acid, 7-[(4-chloro-6-[(4-chloro-3-sulfophenyl)amino) 1,3,5-triazrin-2-yl)amino)-4-hydroxy-3-((4-methoxy-2-sulfophenyl)azo-, potassium sodium salt and 2-naphthalenesulfonic acid, 7-[(4-hydroxy-6-[(4-chloro-3-sulfophenyl)amino)-4-hydroxy-3-[(4-methox-2-sulfophenyl)azo-, potassium sodium salt.

Use/Import. (S) Dye for cellulosis fibers. Import range: 10,000 kg/yr.

P 91-508

Importer. Marubeni America Corporation.

Chemical. (S) Mixture of benzoic acid, 5-[(4-[(5-hydroxy-6-[(2-methoxy-5-methyl-4-[(2-sulfophenyl)azo) phenyl)azo)-2-(methylamino)-7-sulfo-1-naphthalenyl)azo)-3-sulfophenyl)amino)-1,3,5-triazrin-2-yl)amino)-2-hydroxy-, trisodium salt and benzoic acid, 5-[4-chloro-6-[4-[5-hydroxy-2-methylamino-7-sulfo-1-naphthy)azo)-3 sulfoanilino)-

1,3,5-triazrin-2-ylamino)-2-hydroxy—, disodium salt.

Use/Import. (S) Dye for cellulosis fibers. Import range: 10,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 2,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Static acute toxicity: time LC50 > 100 mg/l species (rainbow trout). Skin irritation: slight species (rabbit). Mutagenicity: negative.

P 91-567

Importer. Marubeni America Corporation.

Chemical. (S) 1H-Indole, 3-((2,6-dichloro-4-nitrophenyl)azo)-1-methyl-2-phenyl-.

Use/Import. (S) Dye for polyester fibers. Import range: 10,000 kg/yr.

P 91-568

Importer. SNPE Inc.

Chemical. (S) 2,5,8,10,13-Pentaoxahexadec-15-enoic acid, 9,14-dioxo-2-((1-oxo-2-propenyl)oxy)ethyl ester.

Use/Import. (S) Reactive diluent in ultraviolet or electron beam curing of lithographic inks. Import range: 10,000–30,000 kg/yr.

P 91-568

Importer. Organic Dyestuffs Corporation.

Chemical. (S) Reactive orange 72: 2-Naphthalenesulfonic acid, 7-(acetyl-amino)-4-hydroxy -3-((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)azo)-, disodium salt.

Use/Import. (S) Resale as is and physical mixtures with other shading colors. Import range: 1,500–3,000 kg/yr.

P 91-569

Importer. Organic Dyestuffs Coporation.

Chemical. (S) Acid yellow 145-1,3,6-Naphthalenetrisulfonic acid, 7-((2-((Aminocarbonyl)amino)-4-((4-chloro-6-((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)amino)-1,3,5-triazrin)-2yl)amino)phenyl)azo)-, tetrasodium salt.

Use/Import. (S) Resale as is and physical mixtures with other shading colors. Import range: 1,500–3,000 kg/yr.

P 91-570

Importer. Organic Dyestuffs Corporation.

Chemical. (S) 2,7-Naphthalenedisulfonic acid, 5-((4-chloro-6-((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)amino)-1,3,5-triazrin-1-yl))amino)-4-hydroxy-3-((2-sulfophenyl azo)-Yetrasodium salt.

Use/Import. (S) Resale as is and physical mixtures with other shading colors. Import range: 1,500–3,000 kg/yr.

P 91-591

Manufacturer. Olin Corporation.

Chemical. (G) Hydroxyl-terminated prepolymer.

Use/Production. (S) Urethane foam production. Prod. range: 1–15 kg/yr.

Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit).

P 91-592

Manufacturer. Olin Corppration.

Chemical. (G) Hydroxy-terminated prepolymer.

Use/Production. (S) Urethane foam production. Prod. range: 1–15 kg/yr.

Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit).

P 91-593

Manufacturer. Olin Corporation.

Chemical. (G) Hydroxyl-terminated prepolymer.

Use/Production. (S) Urethane foam production. Prod. range: 1–15 kg/yr.

Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit).

P 91-594

Importer. Confidential.

Chemical. (G) Polypropylene glycol mixture.

Use/Import. (G) Backing component for fibric. Import range: Confidential.

P 91-595

Importer. Confidential.

Chemical. (G) Styrene acrylate ionomer resin.

Use/Import. (S) Component of toner. Import range: Confidential.

P 91-596

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Substituted azo naphthalenesulfonamide.

Use/Production. (S) Dye intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: positive.

P 91-597

Manufacturer. Hoechst Celanese Corporation.

Chemical. (S) 2-Anthracenesulfonic acid, 1-amino-9.10-dihydroxy-4-(((3-((2-hydroxyethyl)sulfonyl)phenyl)amino-9,10-dioxo-, monosodium salt.

Use/Production. (S) Captive intermediate. Prod. range: 50,000–90,000 kg/yr.

P 91-598

Importer. Ciba-Geigy Corporation.

Chemical. (G) Epoxidized copolymer of phenol and substituted phenol.

Use/Import. (S) Epoxy molding compounds. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: positive.

P 91-599

Manufacturer. Confidential.

Chemical. (G) Amine-epoxy addict.

Use/Production. (S) Intermediate. Prod. range: Confidential.

P 91-600

Manufacturer. Confidential.

Chemical. (G) Salt of amine/epoxy adduct.

Use/Production. (G) Open nondispersive. Prod. range: confidential.

P 91-601

Manufacturer. Confidential.

Chemical. (G) Methylstyrene olimers.

Use/Production. (S) Intermediate. Prod. range: Confidential.

P 91-602

Manufacturer. Confidential.

Chemical. (G) Acrylic/polyester grafted polymer.

Use/Production. (G) Open, dispersive. Prod. range: Confidential.

P 91-603

Manufacturer. Confidential.

Chemical. (G) Blocked polyurethane prepolymer.

Use/Production. (S) Adhesive promoter for use in a polyurethane coating. Prod. range: Confidential.

P 91-604

Importer. Ciba-Geigy Corporation.

Chemical. (S) Acetic acid, (((3,5-bis(1,1-dimethylethyl)-4-hydroxyphenyl)thio)-, C10-14-isoalkyl)esters.

Use/Import. (S) Antioxident for lubricants. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 4,646 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Mutagenicity: negative. Static acute toxicity: time LC50 96H> 74 ml/l species (zebra fish). Skin irritation: slight species (rabbit). Skin sensitization: positive species (guinea pig).

P 91-605

Importer. Confidential.

Chemical. (G) Hydroxy modified resin.

Use/Import. (G) Epoxy modified. Import range: Confidential.

P 91-606

Importer. Confidential.

Chemical. (G) Modified diphenyl methane diisocyanate.

Use/Import. (G) Flexible urethane foam. Import range: Confidential.

P 91-607

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Heterocyclic amine.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 91-608

Importer. Huls America, Inc.

Chemical. (G) Alkyl chloride.

Use/Import. (S) Reactive for the preparation of a alkyl reagent. Import range: Confidential.

P 91-609

Manufacturer. Huls America Inc.

Chemical. (G) Alkyl grignard reagent.

Use/Production. (S) Reactant for the prepartion of a dialkylalkoxysilane. Prod. range: 2,000 kg/yr.

P 91-610

Manufacturer. Confidential.

Chemical. (G) Modified aliphatic polyanhydride.

Use/Production. (G) Coating component for open, nondispersive use. Prod. range: 8,750–13,500 kg/yr.

P 91-611

Manufacturer. Synthetic Products, Co.

Chemical. (S) Melamine amyl phosphate.

Use/Production. (S) Flame retardant. Prod. range: 50,000–500,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat).

P 91-612

Manufacturer. Dow Corning Corporation.

Chemical. (G) Polydimethylsilane.

Use/Production. (S) Silicone encapsulant for electronic components. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: negative. Skin irritation: negligible species (rabbit).

P 91-613

Manufacturer. Dow Corning Corporation.

Chemical. (G) Polydimethylsiloxane.

Use/Production. (S) Silicone encapsulant for electronic components. Prod. range: Confidential.

P 91-614

Manufacturer. Central Soya Company, Inc.

Chemical. (S) Canola.

Use/Production. (S) Generalized industrial lubricants. Prod. range: Confidential.

P 91-615

Manufacturer. Confidential.

Chemical. (G) Halogenated phthalimide.

Use/Production. (G) Open nondispersive use. Prod. range: Confidential.

P 91-616

Importer. Unichem North America.

Chemical. (G) Neopentyl glycol diisostearate.

Use/Import. (G) Dispersive and nondispersive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Skin irritation: negligible species (Rabbit).

P 91-617

Importer. Tosohaas.

Chemical. (G) Polymethacrylate derivative with trimethylpropylammonium group.

Use/Import. (G) Contained use. Import range: Confidential.

P 91-618

Importer. Tosohaas.

Chemical. (G) Polymethactylate derivative with sulfonate group.

Use/Import. (G) Aqueous solution-contained use. Import range: Confidential.

P 91-619

Manufacturer. Confidential.

Chemical. (G) Orthoxylate compound.

Use/Production. (G) Solvent for the paper industry. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-620

Manufacturer. Confidential.

Chemical. (G) Polyester polyurethane.

Use/Production. (S) General purpose coating. Prod. range: Confidential.

P 91-621

Manufacturer. Siltech Inc,.

Chemical. (G) Silicone wax.

Use/Production. (G) Lubricant. Prod range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 91-622

Manufacturer. Henkel Corporation.

Chemical. (G) Trimethylolpropane complex ester.

Use/Production. (S) Lubricant basestock. Prod. range: 5,000–80,000 kg/yr.

P 91-623

Manufacturer. Confidential.

Chemical. (G) Amino ester.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1.19 mg/kg species (rat). Acute dermal toxicity: LD50 2.83 ml/kg species (rabbit). Eye irritation: strong species (rabbit). Skin irritation: strong species (rabbit).

P 91-624

Manufacturer. Huls America Inc.

Chemical. (G) Aqueous oligomeric silane solution with amino and vinyl.

Use/Production. (S) Surface modification of minerals. Prod. range: Confidential.

P 91-625

Manufacturer. Henkel Corporation.

Chemical. (S) Fatty acids, C18 unsaturated, dimers, hydrogenated, monomethyl ester.

Use/Production. (S) Lubricant basestocks for aluminium rolling. Prod. range: 10,000–80,000 kg/yr.

P 91-626

Manufacturer. Confidential.

Chemical. (G) Polyester.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-627

Manufacturer. Confidential.

Chemical. (S) Modified maleic anhydride/terpentine resin.

Use/Production. (S) Tackifier for agricultural pesticides. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2650 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,020 mg/kg species (rabbit). Inhalation toxicity: LC50 > 2.08 mg/l species (rat). Eye irritation: moderate species (rabbit). Skin irritation: moderate species (rabbit).

P 91-628

Manufacturer. Confidential.

Chemical. (G) Silicone-modified polyester.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 91-629

Importer. Henkel Corporation.

Chemical. (G) Alkyl sulfosuccinamide, sodium salt.

Use/Import. (S) Ore flotation. Import range: Confidential.

Toxicity Data. Inhalation toxicity: LC50 16 mg/l species (Brachianio rerio). Eye irritation: strong species (rabbit). Skin irritation: slight species (rabbit).

P 91-630

Importer. Henkel Corporation.

Chemical. (G) Carboxylic acid derivative.

Use/Import. (S) Ore flotation. Import range: Confidential.

P 91-631

Importer. Dow Corning Corporation.

Chemical. (S) Siloxanes and silicones, Me hydrogen, reaction products with vinyl group-terminated dime siloxanes and silicones and 4-vinylcyclohexene monoepoxide.

Use/Import. (S) Plastics additive. Import range: 5,000–10,000 kg/yr.

P 91-632

Manufacturer. Oxid, Inc.

Chemical. (S) Ethoxylated N-hexylamine compounds with boric acid and tall oil fatty acids.

Use/Production. (G) Corrosion inhibitor in metal working fluids. Prod. range: 5,000–50,000 mg/kg.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat).

P 91-633

Manufacturer. Confidential.

Chemical. (G) PPDI polyester prepolymer.

Use/Production. (S) Industrial products. Prod. range: Confidential.

P 91-634

Manufacturer. Confidential.

Chemical. (G) Acrylate/polyalkoxy alkenyl ether copolymer.

Use/Production. (G) Metal surface preparation. Prod. range: Confidential.

P 91-635

Manufacturer. Confidential.

Chemical. (G) Acrylate/polyalkyloxy alkenyl ether copolymer.

Use/Production. (G) Metal surface preparation. Prod. range: Confidential.

P 91-636

Manufacturer. Confidential.

Chemical. (G) Acrylate/polyalkyloxy alkenyl ether copolymer.

Use/Production. (G) Metal surface preparation. Prod. range: Confidential.

P 91-637

Manufacturer. Confidential.

Chemical. (G) Silane modified ethylene polymer.

Use/Production. (G) Extruded articles. Prod. range: Confidential.

P 91-638

Manufacturer. Bedoukian Research, Inc.

Chemical. (G) Ethyl, alkenoate.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 91-639

Manufacturer. Confidential.

Chemical. (G) Aryl substituted thiuram.

Use/Production. (G) Crosslinking acceleration. Prod. range: Confidential.

Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-640

Manufacturer. Basf Corporation.

Chemical. (G) Neutralized condensation polymer of aromatic sulfonic acid and urea triazine-formaldehyde resin.

Use/Production. (G) Crosslinking acceleration. Prod. range: Confidential.

Toxicity Data. Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-641

Manufacturer. Basf Corporation.

Chemical. (G) Polysubstituted phenylazonaphthylene disulfonic acid salt.

Use/Production. (S) Leather dyeing. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 10,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,500 mg/kg species (rabit). Static acute toxicity: time LC50 96H53 mg/l species (golden orfe).

P 91-642

Manufacturer. Basf Corporation.

Chemical. (G) Polysubstituted phenylazonaphthalenedisubstituted acid mixed salt.

Use/Production. (S) Leather dyeing. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 10,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,500 mg/kg species (rabit). Static acute toxicity: time LC50 96H53 mg/l species (golden orfe).

P 91-643

Manufacturer. Basf Corporation.

Chemical. (G) Polysubstituted phenylazonaphthalenedisufonic acidmixed salt.

Use/Production. (S) Leather dyeing. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 10,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,500 mg/kg species (rabit). Static acute toxicity: time LC50 96H53 mg/l species (golden orfe).

P 91-644

Manufacturer. Basf Corporation.

Chemical. (G) Bisphenylazo substituted phenylenedisulfonic acid salt.

Use/Production. (S) Leather dyeing. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 10,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,500 mg/kg species (rabit). Static acute toxicity: time LC50 96H53 mg/l species (golden orfe).

P 91-645

Importer. Chisso Corporation.

Chemical. (S) Polymer of bis (dicarboxylic carbomonocyclic) betone dianhydride, bis-(4-amino-phenyl) derivative and amino carbomonocyclic, trimethylsilane.

Use/Import. (G) Protection coating. Import range: Confidential.

P 91-646

Manufacturer. E.I Du Pont De Nemours & Company, Inc.

Chemical. (G) Polysubstituted acrylic copolymer latex.

Use/Production. (S) Fabric finish. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 9470 mg/kg species (rat). Eye irritation: strong species (rabbit). Skin irritation: negligible species (rabbit).

P 91-647

Manufacturer. Confidential.

Chemical. (G) Unsaturated urethane polyester.

Use/Production. (G) Intermediate for dispersively applied coating. Prod. range: 12,500–75,000 kg/yr.

P 91-648

Manufacturer. Confidential.

Chemical. (G) Unsaturated urethane polyester.

Use/Production. (G) Intermediate for dispersively applied coating. Prod. range: 12,500–75,000 kg/yr.

P 91-649

Manufacturer. Confidential.

Chemical. (G) Unsaturated urethane polyester.

Use/Production. (G) Intermediate for dispersively applied coating. Prod. range: 12,500–75,000 kg/yr.

P 91–650

Manufacturer. Confidential.

Chemical. (G) Unsaturated urethane polyester.

Use/Production. (G) Intermediate for dispersively applied coating. Prod. range: 12,500–75,000 kg/yr.

P 91–651

Manufacturer. Confidential.

Chemical. (G) Unsaturated urethane polyester.

Use/Production. (G) Intermediate for dispersively applied coating. Prod. range: 12,500–75,000 kg/yr.

P 91–652

Manufacturer. Confidential.

Chemical. (G) Modified acid functional acrylic polymer.

Use/Production. (G) Component of coating. Prod. range: 50,000-110,000 kg/yr.

P 91–653

Manufacturer. Confidential.

Chemical. (G) Nylon component.

Use/Production. (G) Textile adhesive. Prod. range: Confidential.

P 91–654

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Brominated polyimide.

Use/Production. (S) Manufacturing of pregregs and laminates for the electronic industry. Prod. range: Confidential.

P 91–655

Importer. Confidential.

Chemical. (G) Naphthalenedisulfuronic acid, (((((substituted heterocycle)azo) benzamido)methoxyphenyl)azo)-, trisodiu salt.

Use/Import. (S) Liquid dye for dyeing of paper. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbir). Mutagenicity: negative. Static acute toxicity: time LC50 96H> 1,000mg/l species (rainbow trout). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 91–656

Importer. Confidential.

Chemical. (G) Substituted alkane anilide.

Use/Import. (G) Commerical and consumer contained use. Import range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 91–657

Importer. Confidential.

Chemical. (G) Substituted alkylbenzene.

Use/Import. (G) Commerical and concumer contained use. Import range: Confidential.

Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: moderate species (rabbit).

P 91–658

Importer. Shin-Etsu Silicones of America, Inc.

Chemical. (G) Organopolysiloxane.

Use/Import. (S) Additive for plastic or rubber component. Import range: 3,000 kg/yr.

P 91–659

Manufacturer. Confidential.

Chemical. (G) 2-Chloro-4,6-bis(substituted)-1,3,5-triazine, dihydrochloride.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

P 91–660

Manufacturer. Confidential.

Chemical. (G) Substituted heterocycle benzoic acid.

Use/Production. (G) Chemical intermediate. Prod. range: 1,000–1,4000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Skin irritation: slight species (rabbit).

P 91–661

Manufacturer. Confidential.

Chemical. (G) Substituted alkenylheterocyclic benzzoic acid.

Use/Production. (G) Contained use in an article. Prod. range: 1,200–1,8000 kg/yr.

P 91–662

Manufacturer. Ferro Corporation Keil Chemical Division

Chemical. (G) Sulfonated fatty acid polyol ester.

Use/Production. (G) Lubricant additive. Prod. range: Confidential.

P 91–663

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.

Chemical. (G) Aromatic polyamic acid.

Use/Production. (G) Isolated intermediate, destructive use. Prod. range: Confidential.

P 91–664

Importer. Ciba-Geigy Corp.

Chemical. (S) 4,4'-methylenebisbenzene=amine, polymer with (2-methylphenoxy)methyl oxirane and 4,4'-(Methylethylidiene)bisphenol polymer with (choromethyl)oxirane.

Use/Import. (S) Curing agent for heavy-duty industrial tank linings. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,900 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,150 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: moderate species (rabbit). Skin sensitization: negative species (guinea pig).

Dated: April 1, 1991.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91–8043 Filed 4–4–91; 8:45 am]

BILLING CODE 6560–50–F

[OPTS–59905; FRL 3886–1]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 6 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 91–107, March 20, 1991.
Y 91–108, March 25, 1991.
Y 91–109, March 21, 1991.
Y 91–110, March 20, 1991.
Y 91–111, March 26, 1991.
Y 91–112, March 27, 1991.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 91–107

Manufacturer. Eastman Chemical Company.

Chemical. (G) Cellulose aetate butyrate; succinate anhydride.

Use/Production. (S) Water dispersible cellulose ester for coatings. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Acute dermal toxicity: LD50 > 1 g/kg species (guinea pig). Eye irritation: slight species (rabbit).

Y 91–108

Manufacturer. Eastman Kodak Company.

Chemical. (S) Acetate acid ethenyl ester, polymer with ethanol; B-methylbenzenepropanal, proponal.

Use/Production. (S) Water dispersible cellulose ester for coatings. Prod. range: Confidential.

Y 91–109

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Aqueous acrylic polymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

Y 91–110

Manufacturer. Confidential.

Chemical. (G) Aromatic glyceride polyurethane.

Use/Production. (S) General purpose coating. Prod. range: Confidential.

Y 91–111

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Thermoset coating. Prod. range: Confidential.

Y 91–112

Importer. U.S. Paint Corporation.

Chemical. (G) Polymers: alkyl acrylates, syrene.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Dated: April 1, 1991.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91–8044 Filed 4–4–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Florida-Western Caribbean Shipowners and Operators Association; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011240–001.

Title: Florida-Western Caribbean Shipowners and Operators Association Agreement.

Parties:

Tropical Shipping & Construction Co., Ltd.

Hybur Ltd.

Synopsis: The proposed amendment would add Nexos Line as a party to the Agreement.

Dated: April 1, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–7972 Filed 4–4–91; 8:45 am]

BILLING CODE 6730–01–M

North Carolina State Ports Authority/ Hanjin Shipping Co., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 244–200494.

Title: North Carolina State Ports Authority/Hanjin Shipping Co., Ltd. Terminal Agreement.

Parties:

North Carolina State Ports Authority

Hanjin Shipping Co., Ltd.

Synopsis: The Agreement, filed March 28, 1991, provides that Hanjin will receive certain terminal services at a fixed schedule of rates as well as certain berth, crane, and space guarantees at the Port of Wilmington, North Carolina for an initial term of two years.

Agreement No.: 244–200492.

Title: North Carolina State Ports Authority/Yang Ming Marine Transport Corporation Terminal Agreement.

Parties:

North Carolina State Ports Authority (NCSPA)

Yang Ming Marine Transport Corporation (YMTC).

Synopsis: The Agreement, filed March 28, 1991, provides that YMTC will receive certain terminal services at a fixed schedule of rates as well as certain berth, crane, and space guarantees at the Port of Wilmington, North Carolina for an initial term of two years.

Agreement No.: 224–200490.

Title: Tampa Port Authority/Tampa Bay International Terminals, Inc. Terminal Agreement.

Parties:

Tampa Port Authority (Authority)

Tampa Bay International Terminals, Inc. (TBIT).

Filing Party: Mr. H. E. Welch, Director of Traffic, Tampa Port Authority, P.O. Box 2192, Tampa, FL 33601.

Synopsis: The Agreement, filed March 25, 1991, provides that TBIT will generate (through charges for dockage, wharfage and other charges derived by the Authority) an annual minimum financial guarantee of $830,000, subject to annual review and adjustment. The Agreement supersedes all previous minimum annual guarantees in agreements between the parties.

Agreement No.: 224–200491.

Title: Independent Marine Terminal Discussion Agreement.

Parties:

Cooper/T. Smith Corporation,
Continental Stevedoring & Terminals, Inc.,
Eller & Company, Inc.,
Harrington & Company, Inc.,
International Terminal Operating Co., Inc.,
Maher Terminals, Inc.,
Marine Terminals Corp.,
Metropolitan Stevedore Company,
Ryan-Walsh, Inc.,
Stevedoring Services of America.

Synopsis: The proposed Agreement enables the parties to meet, discuss, and agree upon or recommend regulations, practices, terms and conditions of service for the loading and unloading of cargo onto and from railcars, trucks, barges, and vessels; and to meet, discuss, and agree upon or recommend practices pertaining to lease or usage agreements for marine terminal facilities, or any other matter pertaining to the receipt, handling, storing and/or delivery of cargo at marine terminals in the United States, its territories or possessions. Membership in the Agreement is limited to privately-owned (non-government) independent marine terminal operators which provide facilities in connection with common carriers by water, but which are neither controlled nor owned by or related to such carriers.

By Order of the Federal Maritime Commission.

Dated: April 1, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-7996 Filed 4-4-91; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Model Comprehensive Drug Abuse Treatment Programs for Critical Populations; Residents of Public Housing

OFFICE: Office for Treatment Improvement, HHS.

ACTION: Request for applications for model comprehensive treatment programs for critical populations: Residents of public housing.

Introductive/Purpose

The Office for Treatment Improvement (OTI) is announcing a continuation of its demonstration grant program to assist States and communities to enhance and expand (i.e., to create new treatment capacity) the availability of model comprehensive drug abuse treatment programs for residents of public housing, with the ultimate goal of improving treatment outcome for this population.

OTI is undertaking this program in its role of implementing demand reduction programs for the National Drug Control Strategy, and under statutory authority of section 509G(b) of the Public Health Service Act, as enacted by Public Law 100-690, the "Anti Drug Abuse Act of 1988". Awards will be made to States only under this authority, and only for specific treatment improvement projects proposed in the State's application and approved by OTI. Programs administering specific treatment programs are the sub-applicants. Each State must submit a single, consolidated application listing all proposed projects from each of the proposed sub-applicants. However, it is expected that individual, community-based treatment improvement projects will be developed primarily by local treatment programs and agencies, in tandem with Resident Management Corporations (RMCs), Resident Corporations (RCs), and local Public Housing Authorities (PHAs).

In accordance with applicable Federal legislation and administrative policy, including the National Drug Control Strategy III, OTI will be coordinating this program with similar programs of the Office for Drug Free Neighborhoods, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development (DHUD).

OTI's operating philosophy is that addiction is a chronic relapsing disorder and treatment is most successful when providers offer (1) a continuum of comprehensive therapeutic services, and (2) a readily accessible post-treatment aftercare program. Hence, treatment outcome should improve markedly for patients treated in "model" comprehensive treatment programs.

This announcement is intended to encourage applications from sub-applicants who are either: (1) RMCs, RCs, or other Resident Organizations, or (2) Drug Abuse Treatment Programs that are currently providing drug abuse treatment services within, or immediately adjacent to, the physical boundaries of a public housing project. Should RMCs or RCs wish to apply, they must either have experience in provision of addiction services or collaborate with experienced treatment providers. All proposed project(s) should be coordinated with the local PHA responsible for managing or overseeing the public housing environment that is the focus of each treatment improvement/expansion proposal.

These sub-applicants will be given preference in view of: (1) The relatively high incidence of drug trafficking and drug-related crime associated with public housing communities; (2) the fact that it is incumbent upon OTI to equitably distribute limited Federal funds across a variety of needed treatment interventions for high-risk populations and that, heretofore, public housing developments have not had ready access to Federal funds for drug treatment enhancement projects; (3) the fact that is imperative to develop treatment for critical populations in a cost-effective manner by utilizing human resources already located in public housing developments, such as resident and tenant management associations, which generally exert a strong and protective role in maintaining and improving the quality of life within their communities; and (4) the need to promote ready access to drug abuse treatment and related services (e.g., primary health care, and child day care) for residents of public housing, who generally have limited options for transportation.

Awards will be made for the purpose of implementing treatment enhancement projects in existing programs and for creation of new treatment capacity, provided: (1) The capacity created is in keeping with OTI's model standards of care, and (2) the application contains sufficient documentation of need for additional capacity.

Approximately 20 percent of total funds awarded under all OTI announcements in 1991 will be available for capacity expansion. This percentage does not apply to individual grants at the sub-recipient level. Some sub-recipients may receive more than 20 percent, some less, and some awards will be made for treatment enhancement activities only.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This RFA, Model Comprehensive Drug Abuse Treatment Programs for Critical Populations: Residents of Public Housing, is related to the priority area of Alcohol and Other Drugs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-0) or Healthy People 2000 (Summary report: Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office Washington, DC 20402-9325 (Telephone 202-783-3238).

Covered Populations

While many populations groups could benefit from additional financial aid for treatment of drug abuse, certain groups are facing such major health and socio-economic difficulties as a result of drug abuse as to characterize then as "critical" populations. The critical population which is the focus of this grant announcement is composed of drug abusers who are:

Residents of Public Housing: Individuals who are legal residents of public housing projects (housing units or developments that are subsidized by local and/or federal governments). When applicable, programs should address the specific needs of racial/ethnic minority groups, including Blacks, Hispanics (Mexican American, Puerto Rican, Cuban American, Latin American), American Indians, Native Alaskans, Asian Pacific Islanders, and Native Hawaiians.

OTI is particularly interested in projects that address the following "special" sub-groups of residents of public housing:

- Residents of Public Housing at Imminent Risk of Becoming Homeless. Included are those at imminent risk of becoming homeless because of drug use.
- Residents of Public Housing With Co-Occurring Disorders. Included are those who suffer from co-occurrence of drug addiction with one or more of: alcoholism, physical health disorders and/or diseases [as in the case of HIV-seropositive individuals], or mental health disorders.
- Residents of Public Housing in Rural Areas. Included are individuals who live in subsidized housing units located outside a standard metropolitan statistical area, in communities where the demand for drug treatment exceeds local capacity.

Eligibility

Only States are eligible to receive grant awards under this announcement, in accordance with section 509G(b) of the Public Health Service Act. Each sub-applicant agency must submit its application to the designated State agency. Only one State agency shall be the official applicant for sub-applicants within each state and this agency must be designated in writing by the Governor. A copy of the letter from the Governor designating the State agency responsible for the administration of this program must be included, as Document 1, in appendix I, Eligibility Documentation.

For purposes of this announcement, "State" is defined as the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Successor States to the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

Inappropriate for Review by OTI

1. Research demonstration applications using rigorously controlled comparative experimental designs to assess the efficacy of particular substance abuse interventions are inappropriate under this announcement. Such requests may be more appropriate for the National Institute on Drug Abuse (NIDA) or the National Institute on Alcohol Abuse and Alcoholism (NIAAA).

NIDA and the National Institute for Mental Health (NIMH) also may have funds available for the homeless under existing research and demonstration program authority.

2. Applications that request support for prevention or early intervention projects are inappropriate under this announcement, but may be appropriate for the Office for Substance Abuse Prevention (OSAP).

For information on the above programs, call the National Clearinghouse for Alcohol and Drug Information 1–800–SAY–NOTO.

The Office for Drug Free Neighborhoods will have funds available to support an array of prevention, intervention, treatment and security enhancement activities under the Public and Assisted Housing Drug Elimination Program of the U.S. Department of Housing and Urban Development. PHAs only will be eligible to apply for support under this program. For further information, contact Mr. David Tyus (202) 708–1197.

Funding for demonstration projects may not be requested from more than one Federal source for the same programmatic activities, in the same location, for the same patient population.

Rapid Obligation of Funds to Sub-Recipients

In view of the immediate need to expand and enhance the availability of comprehensive drug treatment services for residents of public housing, OTI places considerable emphasis upon timely obligation and expenditure of Federal funds awarded under this announcement. Because of this imperative, preference may be given to funding projects in States which provide a strong assurance that funds will be rapidly obligated to sub-recipients following the date of Federal grant award (see Award Criteria).

Program Goals

The goal of this demonstration grant program is to expand and improve comprehensive drug abuse treatment projects for residents of public housing and to enhance the continuum of care within the community. This involves establishing linkages and coordination with a wide array of health, mental health, drug treatment, family, education, vocational training, and social services in order to effectuate a strong network of support services for the target population(s).

In order to improve the availability of services for residents of public housing who typically do not have ready access to transportation, applicants should propose to provide treatment services within, or immediately adjacent to, the physical boundaries of a public housing project.

It is intended that proposed treatment improvement projects, together with existing services and systems in a given environment, could eventually become prototypes for effective drug treatment programs in other similar jurisdictions. OTI considers that effective drug treatment programs for residents of public housing should endeavor to:

- Decrease drug abuse;
- Decrease drug-related crime and other social dysfunctions and dislocations (e.g., homelessness, unemployment, and child abuse);
- Increase patient social, educational, and vocational functioning;
- Reduce patient morbidity, including the incidence/severity of mental and physical health disorders, especially HIV/AIDS.

Model Treatment Environments

Support may be requested for one or more treatment enhancement or expansion approaches, as required, in order to result in a comprehensive "model" treatment environment for residents of public housing. Proposed enhancements/expansions, together with existing services, must build toward a comprehensive model approach. Examples of services that are inherent in a comprehensive approach are listed below. Methods of implementing these components, the staff delivering each service, and the style with which services are delivered, are expected to vary depending on patient needs.

- An intake and assessment protocol which consists of a medical exam, a drug use history, psycho-social evaluation, and, where warranted, a

psychiatric evaluation. The intake process should include an assessment of patient eligibility (and subsequent registration) for Medicaid, public assistance, and other health and human services benefits, i.e., SSI, AFDC, Medicare, and Job Training Partnership Act (JTPA) programs.

- Same day intake services.
- Documented case finding.
- On-site provision of preventive and primary medical care.
- Provision of, or established referral linkages for, acute medical care.
- Testing for hepatitis, retrovirus, tuberculosis, HIV positivity/AIDS, syphilis, gonorrhea, and other sexually transmitted diseases.
- Appropriate pharmacotherapeutic interventions with concomitant assessment and monitoring by qualified medical/psychiatric staff. These interventions are particularly appropriate for persons with mental health disorders, and for HIV-seropositive individuals who require prophylactic medication such as aerosol pentamidine or AZT.
- Counseling for HIV positive/AIDS patients.
- Initial and random urine testing (frequent periodic).
- Basic substance abuse counseling, psychological counseling, psychiatric counseling, and family/collateral counseling provided by persons certified to provide these services by appropriate State/local authorities.
- Practical life skills counseling/training.
- Nutritional and general health education provided by a qualified technician.
- Peer/support group forums, especially for HIV positive patients and individuals who have been exposed to rape or physical or sexual abuse.
- Substance abuse, sex and HIV/AIDS education and prevention, including family planning and contraception counseling and education [should include pregnancy prevention for adolescents and women].
- Vocational and educational evaluation, counseling and training; where possible, these services should be provided via linkages to appropriate training programs in the community [e.g., mentor program with local businesses, JTPA programs, local education/GED programs]; coordination of these activities should involve case management and follow-up to ensure appropriate delivery of services.
- Liaison and intervention with criminal justice authorities, legal aid, Bureau of Indian Affairs, and Immigration, as appropriate.
- Social activities.
- Child care provision at the treatment facility.
- Provision of transportation services.
- Aftercare and follow-up services involving sustained and frequent interaction with recovering individuals who have graduated from the intensive or primary phase of treatment. Aftercare and follow-up should include consistent face-to-face contact between the graduate and his/her primary counselor or case manager, graduate participation in group and individual counseling sessions, social activities geared toward the recovering substance abuser, and graduate involvement in AA, NA or CA.

Though the primary drug treatment facility must be located within, or immediately adjacent to, the physical boundaries of the public housing development, it is expected that many of these services will be provided through collaborative agreements with community service providers. Coordination of service delivery is a requirement of this grant program. Documentation of formal linkages between sub-applicants and appropriate local drug, alcohol, HIV-related services, State/County/City mental health and public health programs is required in appendix 3.

Applications must address, for each proposed project, how existing services, along with the proposed enhancement and/expansion, will serve the complex and varied needs of public housing residents.

Activities for Which Grant Support is Available

The primary focus of this program is to enhance existing substance abuse treatment services and/or create new treatment capacity for residents of public housing.

By definition, enhancement means "improvement." To the extent possible, enhancement should be achieved through utilization of existing community-based services. This means establishing linkages with service entities already existing in the community.

Examples of enhancement strategies include: Additional services/staff necessary to improve the quality and success of treatment for the target population(s); improvements in intake, diagnosis and referral to permit more comprehensive assessment of patient needs; innovative approaches for improving case management and aftercare; and, strategies for staff recruitment and retention.

A sub-applicant may also request funds to create new treatment capacity, provided its application is accompanied by a letter from the State drug abuse authority which attests to the existence of sufficient demand to support the new capacity being requested. This letter must be provided in appendix 2.

Meeting Participation. Funds should be requested for at least one representative from each sub-applicant agency to attend one national technical assistance meeting per grant year. Each technical assistance meeting will average three days in duration.

Period of Support

Support may be requested for a period up to 4 years. Annual awards for continuation funding of sub-recipient grants will be subject to availability of funds and progress achieved.

Availability of Funds

In FY 1991, it is estimated that approximately $4 million will be available to support, through grants to States, 8 to 12 individual treatment improvement projects under this announcement. It is expected that individual project funding needs will vary widely.

Executive Order 12372 (Intergovernmental Review)

The intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100, are applicable to this program. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contract (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is including in the application kit. The SPOC should send any State process recommendation to: Critical Populations: Residents of Public Housing (PH) Technical Resources, Inc., 3202 Tower Oaks Blvd., Rockville, Md. 20852, (301) 230–4792 or (301) 230–4788.

The due date for State process recommendations is 60 days after the deadline date for receipt of applications. OTI does not guarantee to accommodate or explain the State process recommendations that are received after the 60-day cut-off date.

Application Process

Applicants should use form PHS–5161–1 (Rev. 3–89). The title of the RFA, Model Comprehensive Drug Abuse

Treatment Programs for Critical Populations: Residents of Public Housing, should be typed in item number 10 on the fact page of the Application for Federal Assistance (Standard Form 424) in PHS–5161–1.

Application kits containing the necessary forms and instructions may be obtained from: Critical Populations: Residents of Public Housing (PH) Technical Resources, Inc., 3202 Tower Oaks Blvd. Rockville, Md. 20852 (301) 230–4792 or (301) 230–4788.

The state applicant agency must submit a cover letter listing all projects included in the application. To the extent that the State intends to provide an assurance that Federal funds will be rapidly obligated to sub-recipients following the date of grant award, this assurance must be included in appendix 8. It must clearly define the period within which the State intends to obligate Federal funds following the date of grant award.

The State must file the face sheet (Standard Form 424) and one form PHS–5156–1 (Rev. 3/89), illustrating consolidated budget information for all projects. In addition, each sub-applicant must file a face sheet and a separate budget sheet (Standard Form 424A), with detailed justified categorical information (i.e., personnel, equipment, supplies, travel), and a separate Program Narrative must be submitted for each project. A description of economies of scale (economic/resource advantages) associated with simultaneous creation of new treatment capacity and enhancement should also be included in appendix 6.

The sub-applicant's budget and budget justification must include information which will delineate between costs associated with enhancement and the costs associated with new treatment capacity.

The signed original and two copies of the form PHS 5156–1 should be sent to: Critical Populations: Residents of Public Housing (PH), Technical Resources, Inc., 3202 Tower Oaks Blvd., Rockville, Md. 20852, (301) 230–4792 or (301) 230–4788.

All Information Provided in Applications Must be Accurate and Truthful to the Best of the Applicant's Knowledge, Under Penalty of all Applicable Federal Laws and Regulations.

Application Characteristics for Individual Projects

Each sub-applicant must develop and submit, through the State, a single application for funding. The application should consist of a Face Sheet (SF–424); Abstract; Table of Contents; Narrative, including Budget Forms (SF–424A); and Appendices.

Abstract

The Abstract should be single-spaced, 30 lines or less. The Abstract must summarize: (1) The target population and subpopulation groups that will be served, including racial/ethnic group breakouts and size of patient population, current and proposed; (2) which substances are typically abused by the target population(s); (3) the components (modalities) of the proposed treatment project; and, (4) the functional relationship of the components into a comprehensive, unified project. The Abstract should be most carefully prepared because it is: (a) Critical to the initial step in the review process; and, (b) a permanent part of the final record of review (i.e., Summary Statement).

Table of Contents

Immediately following the abstract page, a table of contents is required which identifies the beginning page of each section of the proposal. The following sections must be included in the Table of Contents:

A. Goals and Objectives.
B. Background and Significance.
C. Target Population.
D. Approach/Method.
E. Evaluation Plan.
F. Confidentiality Requirements.
G. Project Staffing, Management and Organization.
H. Budget, Budget Justification and Resources.
I. Appendices.

Narrative

At the beginning of the program narrative, the sub-applicant must indicate: (1) The name of the treatment program; (2) the title of the organization or agency primarily responsible for the project; and (3) the name of the project director (i.e., the individual responsible for carrying out the proposed project.

Note: This should be the same person as the one designated on page 18, last item, of form 5161).

The narrative should be written in a well-organized manner that is self-explanatory to outside reviewers unfamiliar with prior related activities of the applicant (see Specific Instructions for Completing the Narrative Section of the application).

Appendices

Appended material should be organized and labeled as follows for each separate component (where appropriate). All appendices are to be continuously paginated with the main body of the application.

1. Eligibility.
• *Document 1*—Governor's Letter (see Eligibility).
2. State Certification of Sufficient Demand for New Treatment Capacity (if applicable).
3. Collaborative Agreements and Support Letters.
4. Agency Mission and Treatment Philosophy.
5. Résumés and Job Descriptions.
6. Creation of New Capacity/Enhancement Detail.
7. Other Support.
8. State Assurance of Rapid Obligation of Funds Post-Award.
9. Other Required Documents.
• *Document 2*—Certification that sub-applicant is either a Resident/Tenant Organization or a Drug Abuse Treatment Program within the Public Housing boundaries.
• *Document 3*—Letter certifying consistency with State drug treatment plans.
• *Document 4*—Certification of anti-lobbying activities.
• *Document 5*—Letter certifying that the proposed project has been coordinated with the PHA responsible for overseeing affected public housing projects.

Appendices may be attached for technical or specialized materials or letters of support, but should not be used merely to extend the narrative. The Appendices must be clearly labelled, must not exceed 50 pages, and the total number of application pages, including the Appendices, must have continuous numbering. The Appendices must include the letter from the Governor required for eligibility, as noted under the Eligibility section.

Specific Instructions for Completing the Narrative Section

Sections A–E of the narrative may not exceed a total length of 25 single-spaced pages, and sections F, G and H may not exceed a total length of 10 single-spaced pages.

The Following Sections A–G Replace the General Instructions for Completing the Program Narrative of the Application Form PHS–5161–1:

Note: The following application information is required.

A. Goals and Objectives

Identify the goals and specific treatment improvement enhancement and expansion objectives for the proposed project and discuss how these goals relate to those in the grant announcement. (Suggested length: one page.)

B. Background and Significance

Demonstrate familiarity with and understanding of state-of-the-art practices and general knowledge regarding service delivery appropriate to

residents of public housing. Include a brief review of the literature and of other related projects or studies, as well as any relevant prior work or experiences of the agency. Describe the socioeconomic characteristics of the community in which the target population resides (i.e., unemployment, homelessness). Provide evidence that proposed enhancements/expansions are needed in the community and are not currently being provided. (Suggested length: 3 pages)

C. Target Population

Include an operational definition of the target population(s) to be served by the project, to include, in so far as possible in statistical terms, the following: Incidence and/or prevalence of illicit drug abuse, by type of drug; incidence of drug-related criminal activity; race, age and gender characteristics, specified by percentages; size of current patient population and anticipated increase in number of persons served, if applicable; patient socioeconomic characteristics; a specific description of other available relevant services for the target population(s); and a discussion of gaps and other problems, such as accessibility of treatment services for residents of public housing.

D. Approach/Method

Discuss in detail the approach/method to be used in carrying out the goals and objectives of the proposed project. The following information should be included:

- A description of the existing components of the subapplicant's program which includes specific treatment goals and modalities; include collaborative agreements with service providers in appendix 3 and a description of the program's mission and treatment philosophy in appendix 4;
- A detailed plan that separates out and describes: the proposed treatment enhancements; how these enhancements, together with existing treatment service components: (1) Will result in a comprehensive model treatment program for this critical population; (2) will address identified service gaps and meet multiple needs of residents of public housing; and (3) will address the treatment improvement goals of the project;
- Where applicable, a plan and budget for capacity expansion, which distinguishes the specific staff, facility and equipment required to implement expansion of capacity; precisely defines how much new capacity will be created in terms of treatment slots, and in addition, provides: (1) A plan that specifically describes how capacity expansion is linked with the proposed enhancements; and (2) a description of how the new capacity will be consistent with the OTI model standard of care. Provide details in support of capacity expansion in appendix 6.
- Procedures for dealing with the difficult issues of patient identification, involvement, retention, and follow-up for the target population;
- Proposed activities by which the unique needs and concerns of racial/ethnic minority individuals will be addressed, giving appropriate attention to such factors as cultural orientations and belief/value systems relevant to this population.

E. Evaluation Plan

Provide a plan for a process evaluation, to include a description of the evaluation design, methodology, procedures for collection and use of data. Include the necessary computer equipment and personnel for data collection and analysis. The following are examples of evaluation data which are typically collected:

- Type and frequency of treatment services provided to patients;
- Number of patients entering treatment during the treatment improvement project;
- Type of addiction, health and/or mental health problems for which the patients were treated;
- Patient socioeconomic status, race/ethnicity, age, gender characteristics and employment history;
- Innovative approaches used for outreach, treatment, community coordination, and aftercare;
- Extent to which the grant project has been implemented as planned;
- Problems/barriers encountered and solutions offered;
- Established linkages of the grant project with the larger system of care within the community;
- Cost per patient served; and
- Payor source for patient treatment (patient fees, private insurance, donations, Medicaid, Medicare, CHAMPUS).

Outcome evaluation will be conducted on a national basis for demonstration projects funded by this grant program. The outcome measures that will be utilized during the course of the national evaluation will be developed by OTI in concert with the national contractor, the grantees, and the sub-recipients. Grantees will be invited to work closely with the national evaluator and to provide data. Sub-recipients are encouraged to participate in the national evaluation.

F. Confidentiality Requirements

Applicants should describe procedures used to ensure confidentiality and protection of patients in this section. Awardees must agree to maintain the confidentiality of alcohol and drug abuse patient data in accordance with the regulations governing, "Confidentiality of Alcohol and Drug Abuse Patient Records," (42 CFR part 2). (Suggested length: 2–4 pages).

G. Project Staffing, Management and Organization

1. Organizational Structure

Provide a narrative description and organizational chart, clearly indicating the sub-applicant's entire organizational structure and its component parts, how the proposed activities relate to various program components, and how they fit into the overall structure of the organization. Lines of authority between the Project Director and each related project unit or activity within the organization must be described.

The responsibilities and composition of Public Housing Authorities, Resident/Tenant Management Corporations, Boards of Supervisors, Directors, Trustees, and/or Advisors should be included, where applicable.

Provide a description of organizational relationships between the sub-applicant and other State/local level health and human services agencies as these relate to the proposed project. If the sub-applicant agency is responsible to or receives program and/or management direction from a State, regional, or other office or agency, this relationship should be clearly described.

In multi-site projects the following must be provided: (1) Lines of authority clearly illustrated in an organizational chart; (2) differentiation of objectives between each site and/or program; (3) evidence of coordination among all program components; (4) identification of facility location where program enhancement is intended; and (5) delineation or linkages between components of the project with other alcohol, drug, health, mental health, education, and public service agencies. Include in appendix 3 copies of letters and/or other documentation of specific commitments of support and participation in the proposed project.

2. Organizational Capability

Provide evidence that the organization is capable of implementing the proposed project. Evidence of experience in similar or relevant activities, expertise in service delivery and evaluation,

experience in developing and effectively using inter-organizational agreements, and other indications of capability should be provided. The use of external expertise is encouraged when helpful (e.g., evaluation consultants).

3. Staffing Pattern

Highlight staff experience and/or training pertinent to the proposed project. List each staff person/position (within the separate components proposed for enhancement and new treatment capacity) indicating percentage of time each will devote to the project. Indicate which positions require new hiring. Illustrate graphically each position and its functions in a staff loading chart. Provide documentation to assure that staff loaned to the project is available for the amount of time required. Appendix 5 must include: resumes and job descriptions for all key staff/positions (i.e., management, supervisors, counselors and other clinical personnel) at each site to include job title, supervisory relationships, responsibilities, education and qualifications. Only one job description is needed for identical positions. Include in the narrative a brief description of procedures for staff recruitment, selection and training, and whether any particular mix of background, skills, gender, and/or race/ethnicity is proposed.

The relationship of staff characteristics to the target population(s) and objectives of the treatment improvement project is critical. Consideration must be given to the use of multidisciplinary staff and staff representing the gender, race, ethnic and cultural characteristics of the population(s) being served.

4. Project Management Plan

The Management Plan must include an illustrative description of the tasks to be performed, the sequence, performance schedule, and how tasks are related. Each task should be related to the project goals and objectives, as well as to the management and staffing of the project. The level of effort required for each task should be illustrated.

H. Budget, Budget Justification, and Resources

Using SF–424A, provide separate budget breakouts and sub-totals for the enhancement and expansion components with line item justification for each component proposed. Indicate in the expansion budget, the number of slots that will be created. Provide detailed information on capacity expansion in appendix 6.

Describe the facilities, equipment, financial and other resources available to carry out the project. Include concrete plans for acquiring funding after Federal seed money has expired.

Other financial resources available for the project and/or program must be described in appendix 7 and should be labeled "Other Support". Other Support refers to all current or pending support related to the provision of services to the target population as described.

For the primary organization and key organizations that are collaborating on the proposed project, list all currently active support and any applications or proposals pending review or funding that relate to the project. If none, state none.

For all active and pending support listed, also provide the following information:

1. Source of support, including identifying number and title.
2. Project period dates.
3. Annual direct costs supported/requested.
4. Brief description of the project.
5. Justification of the nature and extent of any programmatic and/or budgetary overlaps with the proposed project.

Applicants are reminded of the necessity to provide full and reliable information regarding pending support. Applicants should be cognizant that serious consequences could result if failure to provide complete and accurate information is construed as misleading to PHS. In signing the face sheet of the application, the authorized representative of the applicant organization certifies that the information in the application is accurate and complete.

I. Appendices (See Application Characteristics Section)

Review Process

Applicants must submit complete applications. Upon receipt, applications that are judged to be incomplete, non-responsive to this announcement or non-conforming (i.e., exceed the page limit or do not meet the Eligibility Criterion) will be returned.

Applications judged to be responsive to this RFA will be reviewed for technical merit in accord with the PHS and ADAMHA policies for objective review. The initial review group(s) (IRGs) (i.e., peers) will be composed primarily of non-Federal experts. Notification of the review outcome, in the form of Summary Statements, will be sent to the State and sub-applicants once the technical merit review groups have completed their reviews.

Review Criteria

Each project recommended for approval by the IRG will be rated individually by all members of the IRG. Each IRG member will be asked to assign a priority rating from 1 to 5, with 1 being the best rating. The priority rating is based on an assessment of how well an application measures up to an ideal standard of technical merit and not how it compares with other applications. The ratings will be added, averaged, and multiplied by 100 to provide the actual priority score. The lower the score the higher the technical merit. Criteria for technical merit of individual projects are:

1. Relevance

- Relevance of sub-applicant's proposed objectives to grant program goals and to the target population; and
- Relevance and sensitivity of program and staff to ethnic/racial/cultural factors of the target population.

2. Adequacy of Program Design and Methods

- Extent to which goals and objectives constitute an improvement over the described baseline of existing services;
- Extent to which goals and objectives are achievable and realistic;
- Extent to which proposed enhancements and new treatment capacity proposed, together with existing services, constitute a comprehensive model treatment approach;
- Potential for replicability in similar communities; and
- Adequacy of documentation of patient intake, assessment and referral processes;

3. Proof of Need

- Extent to which the current and proposed target populations are statistically defined (e.g., race, age, ethnicity, gender, and size);
- Adequacy of services proposed to fill identified gaps and to meet patients' multiple needs through service/coordination of existing services; and
- Evidence that proposed services are needed in the immediate community.

4. Program Impact Assessment

- Clarity/feasibility/appropriateness of proposed process evaluation design and methodology; and
- Extent to which proposed staff demonstrate evaluation expertise.

5. Resources and Management

- Evidence of coordination with and commitment from health, welfare,

housing, vocational, and educational service providers;

• Evidence of organizational capability and adequate facilities;

• Logic and feasibility of the management plan; and

• Capability/experience of project director, consultants and staff, and adequacy of staffing plan.

6. Budget

• Reasonableness/appropriateness of budget breakouts and line item justification for each of the enhancement and creation of new treatment capacity components; and

• Evidence of concrete plans for securing future funding following the period of Federal support for the project.

Award Criteria and Process

Individual projects will be considered for funding primarily on the basis of overall technical merit of the project as determined by the review process. Other award criteria will include:

(1) Preference will be given to sub-applicants providing documentation that the sub-applicant agency is either: (1) A Resident/Tenant Organization (organization must either be an experienced provider of addiction treatment services or must collaborate with an experienced treatment provider), or; (2) a Drug Abuse Treatment Program currently providing drug abuse treatment services within, or immediately adjacent to, the physical boundaries of the public housing project. Include as Document 2 in appendix 9.

(2) Need, as evidenced by objective indicators to include, but not be limited to: current AIDS incidence data published by the Centers for Disease Control, Drug Abuse Warning Network (DAWN) data, and capacity utilization data derived from the National Drug and Alcoholism Treatment Unit Survey (NDATUS).

(3) Reasonable geographic distribution of awards throughout the country; under this criteria, preference will be given to sub-applicants who did not receive awards under the Critical Populations Program in FY 1990.

(4) Reasonable distribution of awards to urban/rural settings.

(5) Availability of funds.

(6) Preference may be given to funding projects in States which provide assurance that funds will be rapidly obligated to sub-recipients following the date of award. Provide documentation of assurance in appendix 8.

(7) Preference will be given to sub-applicants providing documentation of consistency with current State drug abuse treatment plans. Include as Document 3 in appendix 9.

(8) Preference may be given to sub-applicants providing certification that the proposed project has been fully coordinated with the local PHA. Include as Document 5 in appendix 9.

With such limited funds it is unlikely that all projects included in an approved State application would receive support. If selected for an award, a State will receive a Notice of Grant Award specifying which project(s) is/are being funded, and the State will be responsible for notifying individual programs.

Terms and Conditions of Support

States may use grant funds only to support the particular projects for which funding is provided by OTI. Since transfers of funds between projects results in a change of scope for those projects, funds may be re-budgeted among projects by the State without the written prior approval of the Grants Management Officer.

The State may recover the lesser of its actual costs of administration (direct and indirect costs) of the grant, or 2 percent of the total amount of the grant awards to sub-recipients within the State.

Grant funds may be used for necessary expenses clearly related to the described project, including direct costs which can be specifically identified with the project, together with allowable indirect costs of the organization.

Grant funds cannot be used to supplant current funding for existing activities, either at the grantee or the sub-recipient levels. Allowable items of expenditure for which grant support may be requested include:

• Salaries, wages, and fringe benefits of professional and other supporting staff engaged in the project activities;

• Travel directly related to activities under the approved project;

• Supplies, communications, and rental of space directly related to approved project activities;

• Contracts for performance of activities under the approved project;

• Other such items necessary to support project activities;

• Alterations and renovations. Costs for alterations and renovations (A&R) will be allowable where such A&R is necessary for the success of the program, subject to the Public Health Service (PHS) Grants Policy Statement which states that, "That amount budgeted or used for A&R during three consecutive budget periods (whether or not the 3 years overlap two distinct competitive segments of support) cannot exceed the lesser of $150,000 or 25% of the total funds reasonably expected to be awarded by PHS for direct costs for such three-year period. In addition, the maximum amount of PHS grant funds that may be sent for any single A&R project is $150,000—regardless of the number of budget periods involved." Construction Costs are not allowed.

Progress reports will be required as specified in accord with PHS Grants Policy requirements.

Grants must be administered in accordance with the PHS Grants Policy Statement (Rev. October 1, 1990).

Federal regulations at title 45 CFR parts 74 and 92, generic requirements concerning the administration of grants, are applicable to these awards.

Application Receipt and Review Schedule

Receipt date	Initial review	Earliest start date
June 24, 1991	July/Aug. 1991	Sept. 1991

Applications received after the above receipt date will be returned to applicant and will not be reviewed.

Contacts for Further Information

Questions concerning program issues should be directed to: Donald A. Streater, J.D. Telephone: (301) 443–6533.

Questions concerning the review process should be directed to: Maggie Wilmore, Division of Review, OTI, (301) 443–8923.

Questions on grants management issues should be directed to: Christine Chen, Grants Management Branch, OTI, (301) 443–9665.

Correspondence to the above-mentioned individuals should be addressed to: Office for Treatment Improvement, Rockwall II, 10th floor, 5600 Fishers Lane, Rockville, Maryland 20857.

The reporting requirements contained in this announcement are covered under the Paperwork Reduction Act of 1980, Public Law 96–511, OMB Approval Number 0937–0189.

(The Catalog of Federal Domestic Assistance Number for this program is 93.902.)

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–8073 Filed 4–4–91; 8:45 am]

BILLING CODE 4160–20–M

Technical Assistance Workshop in April

OFFICE: Office for Treatment Improvement, HHS.

ACTION: Notice of technical assistance workshop.

SUMMARY: This notice sets forth the schedule and proposed agenda for the forthcoming technical assistance workshop to assist prospective applicants in responding to the Office of Treatment Improvement's (OTI) following Requests for Applications: (1) Model Comprehensive Drug Abuse Treatment Programs for Adolescents/Juvenile Justice. Applications for this grant announcement will be received June 17, 1991; (2) Model Comprehensive Drug Treatment Programs for Critical Populations: Residents of Public Housing. Applications for this grant announcement will be received June 24, 1991.

Region/Date/Location

Public Health Service Region IX, San Francisco, CA, April 17–18, 1991, Sir Francis Drake, Hotel on Union Square, 450 Powell Street, San Francisco, CA 94102, (415) 392–7755 or 1–800–652–1668.

Time: The workshops will begin at 9 a.m. and end at 3 p.m.

Day 1 Agenda Highlights include:

Overview of the RFA: Model Comprehensive Drug Abuse. *Treatment Programs for Critical Populations:* Residents of Public Housing.

Strategies for Successful Grant Submission and General Principles of the Review and Award Process.

Technical/Practical Aspects of the Grant Application Process including: Completing forms, program narrative, budget justification, management and evaluation.

Questions and answers.

Day 2 Agenda Highlights include:

Overview of the RFA: Model Comprehensive Drug Abuse Treatment Programs for Adolescents/Juvenile Justice.

Strategies for Successful Grant Submission and General Principles of the Review and Award Process.

Technical/Practical Aspects of the Grant Application Process including: Completing forms, program narrative, budget justification, management and evaluation.

Questions and answers.

Status of Workshop: Open to prospective OTI grant applicants.

For further details on the technical assistance workshops contact: Technical Resources, Incorporated, 3202 Tower Oaks Blvd., Rockville, Maryland 20852, (301) 230–4792, (301) 230–4788.

Purpose: The Office for Treatment Improvement, Division of Review and Division of Treatment Resources Development will provide general assistance through these workshops to prospective applicants in responding to the OTI Request for Applications.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–8072 Filed 4–4–91; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 91N-0129]

Drug Export; Stratus® Hepatitis B Surface Antigen (Murine Monoclonal) Detection and Confirmatory EIA Kits

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Baxter Diagnostics, Inc., has filed an application requesting approval for the export of the biological product Stratus® Hepatitis B Surface Antigen (murine monoclonal) Detection and Confirmatory EIA Kits to Canada, Italy, and The Netherlands.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Carl J. Chancey, Center for Biologics Evaluation and Research (NFB–124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 295–8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Baxter Diagnostics, Inc., 1851 Delaware Pkwy., Miami, FL 33152, has filed an application requesting approval for the export of the biological product Stratus® Hepatitis B Surface Antigen (murine monoclonal) Detection and Confirmatory EIA Kits to Canada, Italy, and The Netherlands. The Stratus® Hepatitis B Surface Antigen (murine monoclonal) Detection and Confirmatory EIA Kits are used for the qualitative determination of Hepatitis B Surface Antigen (HBsAg) in human serum or plasma and for performing confirmatory neutralization of samples repeatedly reactive in the Stratus® HBsAg monoclonal assay. The application was received and filed in the Center for Biologics Evaluation and Research on March 7, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 15, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: March 19, 1991.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 91–8013 Filed 4–4–91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91N-0008]

The Safe Medical Devices Act of 1990

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the passage of the Safe Medical Devices Act

of 1990 and FDA's initial plans for implementing its requirements. The intent of this notice is to provide a summary of the new legislation and to inform the public of FDA's plans for its implementation.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: On November 28, 1990, the President signed into law the Safe Medical Devices Act of 1990 (Pub. L. 101-629), which amends the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 201 *et seq.*). The following is a summary of certain provisions of this law and the effective dates for their implementation.

1. Provisions effective immediately:

a. *Section 513(f)(3) of the act (21 U.S.C. 360c(f)(3))*—Manufacturers who submit a premarket notification claiming substantial equivalence to a class III device introduced into interstate commerce before December 1, 1990, and for which FDA has not yet required premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)), are required to certify that they have conducted a reasonable search of all information known or otherwise available to them about the class III device and other similar legally marketed devices. Manufacturers are also required to submit a summary of the types of safety and effectiveness problems associated with the devices being compared and a citation to the information upon which the summary description is based. The summary must be comprehensive and describe the types of problems to which the device is susceptible and the causes of such problems. FDA may request that the manufacturer submit the safety and effectiveness data described in the summary.

b. *Section 513(i) of the act (21 U.S.C. 360c(i))*— The section defines the terms "substantially equivalent" and "substantial equivalence." It also makes it explicit that a manufacturer who submits a premarket notification may not distribute the device subject to the notification until FDA issues an order permitting commercial distribution.

All persons who submit a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)) are required to provide to FDA, as part of the 510(k) submission, a summary of the safety and effectiveness information upon which a substantial equivalence determination is based or state in the premarket notification that such safety and effectiveness information will be made available to interested persons upon request. Safety and effectiveness information refers to information in the premarket notification, including adverse safety and effectiveness information, that supports a finding of substantial equivalence. Thus, for example, the information could be descriptive information about the new predicate device, or performance or clinical testing information.

FDA acknowledges that the act provides persons who submit premarket notifications a choice of providing the agency either a summary of safety and effectiveness information or stating that the information will be made available to the public. FDA encourages manufacturers to make their safety and effectiveness information available to the public, excluding confidential manufacturing process information, in lieu of submitting summaries of the information to the agency, until FDA promulgates a regulation describing the form and content of summaries.

c. *Section 513(a)(1)(B) of the act (21 U.S.C. 360c(a)(1)(B))*—Class II has been redefined. Class II devices are no longer exclusively defined to be those devices for which a performance standard could be developed to provide reasonable assurance of safety and effectiveness. Under the provision, class II devices will be regulated by special controls, including various specified controls and others deemed appropriate by FDA to provide reasonable assurance of safety and effectiveness. Special controls include the promulgation of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions. Also, any special control, by itself or in combination with others, can provide the basis for placing a device into class II. For life-supporting or life-sustaining devices, the agency must identify the control that will be necessary to provide reasonable assurance of safety and effectiveness and how the control will provide such assurance.

d. *Sections 303(j), 515(e), and 518(e) of the act (21 U.S.C. 333(j), 360e(e) and 360h(e))*—FDA has been given additional authority to order the recall of devices and the notification of users (section 518(e)), to temporarily suspend premarket approval of a device (section 515(e)), and to impose civil penalties for violations of the act (section 303(j)). All of these provisions are presently in effect.

e. *Section 520(f) of the act (21 U.S.C. 360j(f))*-The act is amended to provide FDA specific authority to include preproduction design validation of devices as part of the act's current good manufacturing practices. In the Federal Register of November 30, 1990 (55 FR 49644), FDA issued a notice of availability of a document containing suggested changes to the medical devices current good manufacturing practices regulation. These changes include a new section on preproduction design. Interested persons were given until January 29, 1991, to comment. After reviewing the comments, FDA will publish its proposed rule.

f. *Section 522 of the act (21 U.S.C. 360l)*—Manufacturers that introduce into interstate commerce for the first time after January 1, 1991, a permanently implantable device, a life-supporting or life-sustaining device, or a device that potentially presents a serious risk to health are required to conduct postmarket surveillance of the device. Additionally, FDA may in its discretion require postmarket surveillance for any other device.

g. *Section 519(d) of the act (21 U.S.C. 360i(d))*—Manufacturers, importers, and distributors who make reports under section 519(a) will be required to certify to FDA the number of reports submitted in a year or the fact that no such reports have been submitted to the agency.

h. *Section 503(f) of the act (21 U.S.C. 353(f))*—FDA is directed to designate a component within the agency to regulate products that constitute a combination of a drug, device, or biological product. The agency component designated to regulate the product is to be determined by the primary mode of action of the product. For example, if a product is a combination of a drug and a device and the primary mode of action is attributed to the device, and the drug functions to enhance the device effect, the product will be regulated as a device. The definitions of "drug" and "device" have been revised to accommodate this change. FDA is required, within 1 year of the law's enactment date, to issue a regulation setting forth the procedures for the premarket review of combination products.

i. *Section 803(a)*—Congress established within the Department of Health and Human Services an Office of International Relations to consider entering into agreements with foreign countries to facilitate commerce in devices between the United States and such foreign countries. FDA must make a report to the appropriate committees of Congress describing the activities of the Office of International Relations within 2 years of the enactment date of the 1990 amendments.

j. *Subpart C of the act*—The Radiation Control for Health and Safety Act has been incorporated into the act as Subchapter C. This change has no substantive effect on the regulation of radiation emitting devices or other radiation emitting products.

k. *Sections 513, 514, 515, 516, and 520 of the act (21 U.S.C. 360c, 360d, 360e, 360f, and 360j)*—As specified in the 1990 amendments, FDA is excused in most cases from holding hearings or referring actions to advisory committees previously required under sections 513, 514, 515, 516, and 520.

2. Provisions not effective until regulations become final or which have delayed effective dates:

a. *Section 519(b) of the act (21 U.S.C. 360i(b))*—Certain device user facilities (hospitals, nursing homes, ambulatory surgical facilities, and outpatient treatment facilities which are not physician's offices) will be required to report deaths related to medical devices to FDA and to the manufacturer, if known, and device-related serious illnesses or injuries to the manufacturer, or to FDA if the manufacturer is unknown. The responsibility for making reporting is limited to events involving a facility's patients. This provision will become effective upon publication of final regulations or 12 months from the date of enactment, whichever is earlier. FDA is required to provide educational material (including publications) describing these provisions to device users and other affected persons within 18 months after enactment. The agency has already initiated its educational program.

b. *Section 519(a)(6) of the act (21 U.S.C. 360i(a)(6))*—Distributors of medical devices will be required to provide copies of reports required under section 519(a) to device manufacturers. FDA is directed to issue a proposed rule to implement this section within 9 months of its enactment and a final rule within 18 months of enactment. If a final rule is not issued within 18 months of enactment, the proposed rule will become effective as the final rule at that time.

c. *Section 519(e) of the act (21 U.S.C. 360i(e))*—Manufacturers who fabricate devices the failure of which would be reasonably likely to have serious adverse health consequences which are permanent implants or life-sustaining or life-supporting devices used outside of a device user facility will be required to establish tracking systems for these devices. FDA is directed to issue a proposed rule implementing this section within 9 months of its enactment and a final rule within 18 months. If a final rule is not issued within 18 months, the proposed rule will become effective as the final rule at that time.

d. *Sections 515(i) and 520(l) of the act (21 U.S.C. 360e(i) and 360j(l))*—FDA must review the appropriateness of the classification of all transitional devices classified into class III under section 520(l) of the act. Also, the agency must review the appropriateness of the classifications of all preamendment devices classified into class III under section 513(d) of the act, and all devices that have been found to be substantially equivalent to such preamendment devices under section 513(f)(1), which have not been required to submit premarket approval applications to FDA under section 515(b) of the act. FDA is to determine whether these transitional and preamendment devices should remain in class III or be reclassified into class II or class I. This process will be initiated upon FDA's order requiring the submission of summaries of and citations to safety and effectiveness data, including adverse safety and effectiveness information, concerning these devices. Proposed rules concerning the classification of these devices will then be issued for comment with a final rule issuing not earlier than 90 days after the proposal. The revision of the classification process must be completed by December 1, 1995, for preamendments devices (section 515(i) of the act) and December 1, 1993, for transitional devices (section 520(l)(5) of the act).

e. *Section 519(f) of the act (21 U.S.C. 360i(f))*—Manufacturers will be required to report to FDA all device removals and corrections intended to reduce a risk to health posed by a device or to remedy a violation of the act which may present a risk to health. This requirement will become effective upon publication of a regulation implementing it.

f. *Section 520(m) of the act (21 U.S.C. 360j(m))*—FDA is authorized to grant humanitarian device exemptions from the effectiveness requirements of sections 514 and 515 of the act to manufacturers for devices intended to treat or diagnose conditions or illnesses affecting fewer than 4,000 individuals. The bases for an humanitarian device exemption is generally described in the act. This provision will become effective upon promulgation of a regulation implementing it. FDA is directed to issue regulations within 1 year of enactment.

FDA intends to inform the public of the means of complying with the new requirements through seminars, conferences, publications and notices in the **Federal Register.**

Dated: March 28, 1991.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 91-7900 Filed 4-4-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91E-0035]

Determination of Regulatory Review Period for Purposes of Patent Extension; Ultravate®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Ultravate® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product.

Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Ultravate®. Ultravate® (halobetasol propionate) Ointment 0.05% is a super-high potency corticosteroid indicated for the relief of the inflammatory and pruritic manifestations of corticosteroid-responsive dermatosis. Subsequent to this approval, the Patent and Trademark Office receives a patent term restoration application for Ultravate® (U.S. Patent No. 4,619,921) for Ciba-Geigy Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated February 20, 1991, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Ultravate® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Ultravate® is 1,113 days. Of this time, 489 days occurred during the testing phase of the regulatory review period, while 624 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* December 2, 1987. FDA has verified the applicant claim that the date the investigational new drug application became effective was December 2, 1987.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* April 3, 1989. The applicant claims April 1, 1989, as the date the new drug application (NDA) NDA 19-968 was filed. However, FDA records indicate that the receipt date for the NDA is April 3, 1989.

3. *The date the application was approved:* December 17, 1990. FDA has verified the applicant's claim that NDA 19-968 was approved on December 17, 1990.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 415 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 4, 1991, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 2, 1991, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 1991.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 91-8012 Filed 4-4-91; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory Council body scheduled to meet during the month of April 1991:

Name: National Advisory Council on Migrant Health.

Date and time: April 29, 1991—8:30 a.m.-12:30 p.m.

Place: Hyatt Regency Buffalo, Two Fountain Plaza, Buffalo, New York.

The meeting is open to the public.

Purpose: The Council is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Resources and Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 of the Public Health Service Act.

Agenda: The agenda will cover an overview of Council activities and program priorities. At this time the Council will also solicit oral and written comments on specific migrant/seasonal farmworker and migrant health issues that the Council should address.

The meeting is being held in conjunction with the 1991 National Conference on Migrant and Seasonal Farmworkers, April 29-May 2, 1991, Buffalo Convention Center, Buffalo, New York.

The Council has a workshop planned during the National Conference for Tuesday, April 30 (10:30 a.m.-12 p.m.) on "Agenda for 1991: Access and Change" where the Council will give a general overview of Council operation, present and past activities, and then open the floor to audience participation and discussion.

Anyone requiring information regarding the subject Council should contact Mr. Jack Egan, Acting Executive Secretary, National Advisory Council on Migrant Health, room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1153.

Agenda Items are subject to change as priorities dictate.

Dated: April 2, 1991.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 91-8075 Filed 4-4-91; 8:45 am]

BILLING CODE 4160-15-M

Indian Health Service

Availability of Funds for Loan Repayment Program for Health Professions Educational Loans

AGENCY: Indian Health Service (IHS), PHS, HHS.

ACTION: Notice.

SUMMARY: The Indian Health Service announces that $2,436,500 in Fiscal Year (FY) 1991 grant funds are available for the repayment of health professions educational loans in return for full-time clinical service in Indian health programs. This program is authorized by Public Law 100-713, "Indian Health Care Amendments of 1988", enacted on November 23, 1988. Through this notice, the IHS invites potential applicants to request an application for participation in the Loan Repayment Program. The IHS estimates that approximately 120

loan repayment awards may be made with this funding.

DATES: Applications for the FY 1991 cycle of this program will be accepted and evaluated during 3 evaluation and funding cycles. Applicants selected for participation in the FY 1991 program cycle will be expected to begin their service period no later than September 30, 1991. The following application deadlines and award dates are provided below:

Application

Deadline	Award Date	Eligible Tiers
May 8, 1991	May 31, 1991	Tier I only.
June 20, 1991	July 19, 1991	Tier I & II only.
Sept. 6, 1991	Sept. 27, 1991	All tier sites.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline and received in time for submission to the review panel. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applicants received after the announced closing date will be held for consideration in the next funding cycle.

FORM TO BE USED FOR APPLICATION: Applications will be accepted only if they are submitted on the form entitled "Application for the National Health Service Corps (NHSC) and Indian Health Service (IHS) Loan Repayment Programs (LRP), which is also identified with the Office of Management and Budget approval number of OMB #0915–0127.

ADDRESSES: Application materials may be obtained by calling or writing to the address below. In addition, completed applications should be returned to: IHS Loan Repayment Program, 12300 Twinbrook Parkway-suite 100, Rockville, Maryland 20852, PH: 800/962–2817 (toll-free) or 301/443–4242 (between 8 a.m. and 5 p.m. (e.s.t) Monday through Friday, except Federal holidays).

FOR FURTHER INFORMATION CONTACT: Please address inquiries to Mr. Charles Yepa, LRP Coordinator, IHS Loan Repayment Program, Twinbrook Metro Plaza-suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, PH: 800/962–2817 (toll-Free) or 301/443–4242 (between 8 a.m. and 5 p.m. (e.s.t), Monday through Friday, except Federal holidays).

SUPPLEMENTARY INFORMATION: Section 108 of the Indian Health Care Improvement Act as amended by Public Law 100–713, enacted November 23, 1988, authorizes the IHS Loan Repayment Program and provides in pertinent part as follows:

> The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the "Loan Repayment Program") in order to assure an adequate supply of trained physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals necessary to maintain accreditation of, and provide health care service to Indians through, Indian health programs.

This program is designed to address problems the IHS is facing with regard to staffing shortages. Only individuals who are or will be in full-time clinical practice in an Indian health program may participate in this program. For the purposes of this program, the term "Indian health program" is defined as follows:

> Any health program or facility funded, in whole or in part, by the IHS for the benefit of American Indians and Alaska Natives and administered:
>
> a. Directly by the service; or
>
> b. By any Indian tribe or tribal or Indian organization pursuant to a contract under:
>
> (1) The Indian Self-Determination Act; or
>
> (2) Section 23 of the Act of April 30, 1988, (25 U.S.C. 47), popularly known as the Buy Indian Act; or
>
> (3) By an urban Indian organization pursuant to Title V of Public Law 100–713.

Aplicants may sign contractual agreements with the Secretary for (2) or (3) years. The IHS will repay all or a portion of the applicant's health professions educational loans for tuition expenses and reasonable educational and living expenses in amounts up to $25,000 per year for each year of contracted service.

Participants will be required to fulfill their contract service agreements through full-time clinical practice at a designated priority site. The IHS will designate these sites annually. In general, they are sites characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. Sites may be located at IHS facilities or other Indian health program facilities as defined above.

There are several separate, but not necessarily exclusive, groups of priority sites. These are for the priority medical specialties, other medical specialties, nursing, and other health professions. Program participants may match to any available and appropriate vacancy to complete their obligation. A listing of the priority sites for each health profession will be found in the program application packet.

For physicians and other health professionals, except registered nurses, who contract to serve in a designated priority site, the IHS will repay the applicant's health professions loans for tuition and reasonable educational and living expenses as shown in the following table:

Loan Repayment Matrix

Profession	*Length of contract*	*Level of site*	*Maximum amount payable per year*	*Maximum Total amount of contract*
Nurse	2 Years	All	$25,000	$50,000
Priority medical specialties	3 Years	All	25,000	75,000
	2 Years	All	25,000	50,000
All Others	3 Years	All	25,000	75,000
	3 Years	All	25,000	75,000
	2 Years	Tier I	25,000	50,000
	2 Years	Tier II	20,000	40,000
	2 Years	Tier III	18,750	37,500

Special provisions are made for nurses, nurse practitioners, and the priority medical specialties because the IHS faces severe shortages of these individuals. It is hoped that this allowance will attract sufficient

numbers of these individuals to alleviate these shortages.

In addition to the above-mentioned payments to lenders, in any case where payments on behalf of the applicant under the Loan Repayment Program result in an increase in Federal income tax liability, the IHS will pay up to 20% of the applicant's total eligible payment to the Internal Revenue Service on the applicant's behalf for all or part of the increased tax liability of the applicant.

Upon approval of the applicant for participation in the Loan Repayment Program, his/her application will be referred to appropriate recruiters to facilitate the applicant's locating an acceptable position. Priority in funding will be given to Indian applicants and those applicants recruited by an Indian tribe or tribal or Indian organization. Indian preference for employment in the IHS will be granted at the time of application for a specific position and in accordance with established IHS policies and procedures. See the Loan Repayment Program Information Bulletin, which may be obtained by writing to the address or calling the number listed in the "ADDRESS" portion of this Notice, for further discussion of this process.

The IHS has developed lists of priority sites, which include all Indian health programs, as defined above. These sites have been separated into three tiers as a means of defining their relative need and priority. The tiers have the following meanings:

Tier I: The most difficult to recruit for sites and specialties. The sites are characterized by geographic, professional and cultural isolation, and rapid staff turnover. Positions in the priority specialties are designated as Tier I, irrespective of location.

Tier II: Somewhat less difficult to recruit for sites. The isolation and turnover factors less severe than for Tier I sites.

Tier III: All sites not designated as Tier I or Tier II.

The first priorities in making awards in this program will be given to qualified physician (MD or DO) practitioners of the prioroty specialities and other physicians, nurses, dentists, and other health professions applicants who agree to serve at Tier I sites. If funds are available after awards are made to the highest priority group, qualified applicants who agree to serve at Tier II sites will be funded. If funds are still available after the first and second priority groups are accepted into the program, applicants who agree to go to Tier III sites will be funded.

The priorities for funding participants in the program are as follows:

1. PHysicians who are certified in or eligible to sit for the certifying examination of the following speciality boards: general surgery, obstetrics/gynecology, orthopedic surgery, ophthalmology, otorhinolaryngology/otolaryngology, anesthesiology, radiology, and psychiatry.

2. Physicians in other specialties as the needs of the Service require.

3. Registered Nurses.

4. Other health professions.

The specialites listed in number 1 above, are required to permit the IHS to fulfill its responsibilities to provide a full range of health care.

Any individual who enters this program and statisfactorily completes his/her obligated period of service may, if funds are available, apply to extend the contract on a year-by-year or multi-year basis, as determined by the IHS, a the $25,000 per year rate. The maximum amount to be funded in this manner may not exceed the total of the individual's outstanding qualified educational loans.

Applicants must:

A. Meet one of the following requirements.

1. Be enrolled as a full-time student in the final year of a course of study or program lending to a degree in a health profession in an accredited school in a State. (The term "State" includes, in addition to the several States, only the Dsitrict of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Federated States of Micronesia, the Republic of the Marshal Islands, and the Republic of Palau); or

2. Be enrolled in an approved graduate training program in a health profession; or

3. Have a degree in medicine, osteopathy, dentistry, or other health profession; and have completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, and have a license to practice medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the requirement of graduate training for good cause shown; AND

B. Be eligible for, or hold an appointment as a Commissioned Officer in the Regular or Reserve Corps of the Public Health Service, or meet the professional standards for civil service employment in the IHS or be employed in an Indian health program without service obligation; AND

C. Submit an application to participate in the Loan Repayment Program; AND

D. Sign and submit to the Secretary, at the time of the submission of such application, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service in a priority site as determined by the Secretary; AND

E. Sign an affidavit attesting to the fact that they have been informed of the relative merits of the U.S. Public Health Service Commissioned Corps and the Civil Service as employment options.

Selections among qualified applicants will be based upon consideration of the following factors:

- Length of current employment in the IHS, tribal or urban program (employees with the greatest length of service will receive higher consideration);
- Agreement to serve for three years, as opposed to two years;
- Post-graduate training in a specialty or profession most needed by the IHS;
- Board elgibility or certification by start of service (medical);
- A former IHS, tribal or urban program employee with experience in a priority site;
- A former National Health Service Corps (NHSC) Scholarship Program participant with experience in an IHS, tribal, urban program or NHSC site, who has or will complete the service obligation on or before September 30, 1991;
- Experience in a post-residency practice in a primary care Health Manpower Shortage Area (HMSA); and/or
- References from persons having direct knowledge of the applicant's professional capability.

Any individual who owes an obligation for health professional service to the Federal Government or to a State or other entity under an agreement with such State or other entity is not eligible for the Loan Repayment Program unless such an obligation will be completely satisfied prior to the beginning of service under this program in the year that an application is made for this program.

This program is not subjec to review under Executive Order 12372.

The Catalog of Federal Domestic Assistance number is 13.164.

Dated: February 6, 1991.

Everett R. Rhoades,

Assistant Surgeon General Director.

[FR Doc. 91-8014 Filed 4-4-91; 8:45 am]

BILLING CODE 4160-16-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, March 22, 1991.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package.)

1. Progress Toward Eliminating Occupational Lead Poisoning: Survey on the Use of Lead in Industry and Control of Occupational Lead Exposure in Ohio—NEW—This survey will examine the types of lead-using companies doing environmental and/or biological monitoring. The results will be used to target the technical assistance resources of NIOSH to those industries with uncontrolled lead exposures and to those industries that should be doing monitoring and are not. *Respondents:* Businesses or other for-profit.

	No. of respondents	No. of hours per response	No. of responses per respondent
Survey	1,702	1.8 hrs	1
Field Visits.	104	16.0 hrs	1

Estimated Annual Burden 4,669 hours.

2. Reclassifying Petitions for Medical Devices—0910 0138—A reclassification petition allows manufacturers and others to request a change in the regulatory control (class) of a medical device. The petition must provide adequate information demonstrating that the requested change will provide the necessary reasonable assurance of the safety and effectiveness of a device. *Respondents:* Businesses or other for-profit, small businesses or organizations; *Number of Respondents:* 7; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 400 hours; *Estimated Annual Burden:* 2,800 hours.

3. National Longitudinal Alcohol Epidemiologic Survey: Test-Retest/Clinical Reappraisal Study (NLAES:T–R/CRS)—NEW—NIAAA needs information on the reliability and validity of measures of alcohol use disorders and their associated disabilities. This test-retest and clinical reappraisal study of non-institutionalized individuals will provide psychometrically sound measures of alcohol use disorders and their associated disabilities for use in future etiologic, treatment and prevention research. *Respondents:* Individuals or households; *Number of Respondents:* 13,600; *Number of Responses per Respondent:* 1.485; *Average Burden per Response:* .439 hours; *Estimated Annual Burden:* 8,871 hours.

4. Health Study in Mitchell and Caldwell Counties, North Carolina—NEW—This request is for one-time disease prevalence study of former workers at a hazardous waste incinerator and people residing near the area. Study focuses on residential chemical exposure associated with increased health symptoms and disease. *Respondents:* Individuals or households; *Number of Respondents:* 3,676; *Number of Responses per Respondent:* 1; *Average Burden per Response:* .402 hours; *Estimated Annual Burden:* 1,476 hours.

5. Drug Abuse Treatment Outcome Study (DATOS)—NEW—DATOS will collect information on individuals entering drug abuse treatment programs, examine treatment environments, and study the behavior of drug abusers prior to, during, and following treatment. The information will be used to examine drug treatment issues and to better understand treatment effectiveness and rehabilitation. *Respondents:* Individuals or households, businesses or other for-profit, non-profit institutions; *Number of Respondents:* 5,265; *Number of Responses per Respondent:* 4.64; *Average Burden per Response:* 1.04 hours; *Estimated Annual Burden:* 25,407 hours.

6. The Framingham Study (Cohort and Offspring)—0925 0216—This research project involves physical examination and testing of the surviving members of the Framingham Study cohort and their offspring. This study will be used to further describe the risk factors, occurrence rates, and consequences of cardiovascular disease in middle-aged and older men and women. *Respondents:* Individuals or households, non-profit institutions, small businesses or organizations; *Number of Respondents:* 2,250; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1.567 hours; *Estimated Annual Burden:* 3,525 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: March 29, 1991.

James M. Friedman,

Director, Office of Health Planning and Evaluation.

[FR Doc. 91–7971 Filed 4–4–91; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH & HUMAN SERVICES

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on March 15, 1991.

(Call Reports Clearance Officer on (301) 965–4149 for copies of package.)

1. Application for Retirement Insurance Benefits—0960–0007—The information on form SSA–1 is needed by the Social Security Administration to determine an applicant's eligibility to retirement insurance benefits. The respondents are people who file applications for those benefits.

Number of Respondents: 1,560,000.

Frequency of Response: 1.

Average Burden Per Response: 10.5 minutes.

Estimated Annual Burden: 273,000 hours.

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: March 28, 1991.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 91–7798 Filed 4–4–91; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-20]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable or unsuitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: April 5, 1991.

ADDRESSES: For further information, contact the Federal Surplus Property program toll-free information number at 1-800-927-7588 or James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 29, 1991.

Russell Paul,

Deputy Assistant, Secretary for Grant Programs.

[FR Doc. 91-7877 Filed 4-4-91; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Flathead Indian Irrigation Project, MT

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final notice of 1990 operation and maintenance rates.

SUMMARY: The purpose of this notice is to establish the assessment rates for operating and maintaining the Flathead Indian Irrigation Project for 1990. The assessment rates are based on a prepared estimate of the cost of normal operations and maintenance of the irrigation project. Normal operations and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water, including maintaining pumps and other facilities.

EFFECTIVE DATE: This public notice will become effective on the date of publication in the **Federal Register** and will be effective for the period from January 1, 1990, to February 22, 1991.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE 11th Ave., Portland, Oregon 97232-4169, telephone FTS 429-6750; commercial (503) 231-6750.

Authority: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385).

This notice of final operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3, and in accordance with § 171.1(e) of part 171, subchapter H, chapter I, of title 25 of the Code of Federal Regulations, which provide for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Flathead Indian Irrigation Project. See *Joint Board of Control* v. *Area Director*, 17 IBIA 65 (1989).

SUPPLEMENTARY INFORMATION: On October 25, 1989, the Bureau published notice of proposed operation and maintenance rates for 1990, 54 FR 43501. The notice provided opportunity for interested persons to submit written comments, views or arguments with respect to the proposed rate to the Area Director within 30 days of publication. The initial rate proposed for 1990 was $14.36 per acre.

The proposed rate was based on a budget prepared under the direction of the Superintendent, Flathead Agency. The opportunity to review and comment on the proposed rate was provided to the Flathead Joint Board of Control, the Confederated Salish and Kootenai Tribes as well as the general public. This opportunity was provided before the final rate was set. No comments on the proposed rate were received.

This notice sets forth the 1990 operation and maintenance charges and related information applicable to the Flathead Indian Irrigation Project, St. Ignatius, Montana. Pursuant to 25 CFR 171.1(e), the operation and maintenance charges for the lands served by the Flathead Indian Irrigation Project, Montana, for the 1990 season, are hereby fixed as follows:

Basic Assessment: Lands included in an Irrigation District, lands held in trust for Indians and non-District lands are assessed operation and maintenance charges at $14.36 per acre for the season of 1990.

Payment: The operation and maintenance charges on the trust and non-District lands became due on April 1, 1990. Lands within an Irrigation District are biannually billed. At the time of this publication the Area Director's determined rate of $14.36 per acre was collected for District, trust and non-District land served by the irrigation project.

Interest and Penalty Fees: Interest and penalty fees are assessed, where required by-law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, title 4, part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures.

Period Covered: Assessment rates are set for the year 1990.

Wilford G. Bowker,

Acting Portland Area Director.

[FR Doc. 91-8018 Filed 4-4-91; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[NV-010-91-4130-09]

Environmental Impact Statement; Ivanhoe Gold Co., Elko County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an environmental impact statement on an amendment to a mining Plan of Operations for the Ivanhoe Gold Company in Elko County, Nevada; and notice of scoping period and public meetings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and 43 CFR part 3809, the Bureau of Land Management will be directing the preparation of an EIS to be prepared by a third-party contractor on the impacts of a proposed amendment to an existing Plan of Operations for gold mining by Ivanhoe Gold Company, in Elko County, Nevada. The Bureau

invites comments on the scope of the analysis.

EFFECTIVE DATES: Scoping meetings will be held April 24, 1991, at the Bureau of Land Management, Elko District Office, 3900 E. Idaho, Elko, NV, and on April 25, 1991, at the Holiday Inn, 1000 E. 6th St., Reno, NV, to identify issues and concerns to be addressed in the EIS. Both meetings are scheduled from 7 pm–9 pm. Representatives of the BLM and Ivanhoe Gold Company will be available to answer questions about the Plan of Operations amendment. Additional scoping meetings may be held as appropriate. Written comments on the scope of the EIS for the Plan of Operations amendment will be accepted until June 3, 1991.

A draft environmental impact statement (DEIS) is expected to be completed by the winter of 1991 and made available for public review and comment. At that time a Notice of Availability of the DEIS will be published in the **Federal Register**. The comment period on the DEIS will be 60 days from the date the Notice of Availability is published.

FOR FURTHER INFORMATION CONTACT: Scoping comments may be sent to: District Manager, Bureau of Land Management, P.O. Box 831, Elko, NV 89801. ATTN: Ivanhoe Coordinator. For additional information, write to the above address or call David Vandenberg at (702) 753–0200.

SUPPLEMENTARY INFORMATION: Ivanhoe Gold Company of Winnemucca Nevada has proposed an amendment to its existing Plan of Operations for the Ivanhoe Mine located in sections 3, 4, 5, 8, 9, and 10 of Township 37 North, Range 48 East, MDM; approximately 38 air miles northeast of Battle Mountain, Nevada. The existing authorized operation includes an open-pit mine, waste dumps, heap leach facilities, a crushing and agglomeration plant, as well as administrative and maintenance buildings covering approximately 456 acres public land. The proposed action is to develop two new pits, develop new heap leach facilities, expand existing waste dumps, and construct new haul roads in order to maintain the current flow of gold ore. While part of the proposed expansion would be confined to previously disturbed areas, additional disturbance would occur on 228 acres of public lands. The issues expected to be analyzed in the EIS are impacts to cultural resources, wildlife and fisheries, water quantity and quality, soils and vegetation, social and economic values and cumulative impacts. In addition, the following interests will be analyzed: air quality, recreation, geology, range management, lands and realty and land use planning. All resources will be evaluated by an interdisciplinary team that will review the Plan of Operations amendment and environmental documentation.

A range of alternatives (including but not limited to alternative reclamation measures and the no-action alternative), as well as mitigating measures, will be considered to evaluate and minimize environmental impacts and to assure that the proposed action does not result in undue or unnecessary degradation of public lands. Federal, state and local agencies and other individuals or organizations who may be interested in or affected by the Bureau's decision on the amended Plan of Operations are invited to participate in the scoping process for this environmental impact statement. To be most helpful, comments should be as specific as possible.

The tentative project schedule is as follows:

Begin Public Comment Period—April 5, 1991.
Close of Public Comment Period—June 3, 1991.
Issuance of Draft Environmental Impact Statement—Winter of 1991.
File Final Environmental Impact Statement—April 1992.
Record of Decision—May 1992.
Begin Construction of Operation—Spring of 1992.

The Bureau of Land Management's scoping process for the EIS will include: (1) Identification of issues to be addressed; (2) Identification of viable alternatives; (3) Notification of interested groups, individuals and agencies to obtain additional information concerning these or other issues.

Dated: March 26, 1991.

Rodney Harris,

Elko District Manager.

[FR Doc. 91–7973 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–HC–M

[OR–110–6310–11–257A; G1–169]

Medford District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the meeting date of the Medford District Advisory Council on May 16, 1991 at 10 a.m. at the Medford District Office, 3040 Biddle Road, Medford, Oregon.

FOR FURTHER INFORMATION CONTACT: Kurt Austermann, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504; telephone 503–770–2424.

Notice is hereby given in accordance with Public Law 99–463 that a meeting of the Bureau of Land Management's Medford District Advisory Council will be held May 16, 1991.

The meeting will begin at 10 a.m. in the Oregon room of the Bureau of Land Management office at 3040 Biddle Road, Medford, Oregon. The agenda for the Advisory Council includes a status report on the District's Resource Management Plan efforts, timber sale activity and reforestation accomplishments.

Persons interested in making oral statements during the Council meeting, may do so following conclusion of the Council's other agenda items, or written statements may be submitted for the Council's consideration.

Anyone wishing to make an oral statement at the Council meeting must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by close of business May 15, 1991. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date Signed: March 29, 1991.

David A. Jones,

District Manager.

[FR Doc. 91–8025 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–33–M

[CO–030–90–4410–13–1784]

Montrose District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR part 1784, that a meeting of the Montrose District Advisory Council will be held Wednesday May 8, 1991, in Montrose, Colorado.

DATES: The meeting is scheduled for May 8, 1991.

ADDRESSES: For further information contact Ken Herman, Bureau of Land Management (BLM), Montrose District Office, 2465 South Townsend Avenue,

Montrose, CO 81401; Telephone (303) 249–7791.

SUPPLEMENTARY INFORMATION: The Council will convene at the Uncompahgre Resource Area Office in Montrose, Colorado, at 10 a.m. Agenda items will include the following:

(1) Election of Officers.

(2) Gunnison Resource Management Plan Update.

(3) Proposed Legislation to Establish a National Conservation Area for the Gunnison Gorge.

(4) Status of Colorado's Wilderness Package.

District Advisory Council meetings are open to the public.

Dated: March 27, 1991.

Ken Herman,

Acting District Manager.

[FR Doc. 91–7967 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–JB–M

[OR–0301–4320–02: G1–176]

Vale District Grazing Advisory Board; Meeting March 29, 1991.

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given in accordance with Public Law 92–463 that a meeting of the Value District Grazing Advisory Board will be held May 3, 1991.

The agenda of the meeting will focus on changes in grazing management on public lands in response to drought conditions.

This meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make oral statements may do so at 10:30 a.m. m.d.t. on Friday, May 3. Members of the public who wish to take part in the field tour must provide their own transportation.

Summary minutes of the Board's meeting will be maintained in the district office and will be available for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days of the meeting.

DATES: The meeting will begin at 10: a.m. m.d.t. Friday, May 3, 1991, and continue to 11: a.m. A field trip to several drought-affected allotments in northern Malheur County will take place from 11: to 4:30 p.m.

ADDRESSES: The meeting will be held in the meeting room of the Vale District Office, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918; (telephone 503 473–3144).

Geffrey Middaugh,

Associate District Manager.

[FR Doc. 91–7974 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–33–M

[NV–930–91–4212–24; N–38196]

Realty Actions; Airport Lease Application; Nevada

March 14, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; partial termination of segregative effect and limited opening order, Nevada.

SUMMARY: This notice terminates the segregative effect of a portion of airport lease application N–38196.

FOR FURTHER INFORMATION CONTACT: Ben Collins, District Manager, Las Vegas District Office, P.O. Box 26569, Las Vegas, NV 89126 (702) 647–5000.

EFFECTIVE DATE: April 5, 1991.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2091.3–2(a)(2), the segregative effect, as it pertains to the following described lands, will terminate on April 5, 1991:

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
secs. 6 and 7, those lands south and west of Highway 95.

The airport lease application was filed on June 14, 1983, at which time the lands became segregated from all forms of appropriation. Olympic Nevada, Inc., the current applicant of record, withdrew this portion of their airport lease application as they would now like to acquire title to the subject land pursuant to Sec. 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716). At 10 a.m., on April 5, 1991, the above-described lands will become open only to disposal pursuant to Sec. 206 of the Act of October 21, 1976 (43 U.S.C. 1716), for the purpose of consummating an exchange, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules, and regulations. The land will remain closed to all other forms of appropriation including the mining laws.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 91–7975 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–HC–M

[NV–930–91–4212–24; N–44642]

Realty Actions; Airport Lease Application; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; partial termination of segregative effect and limited opening order, Nevada.

SUMMARY: This notice terminates the segregative effect of a portion of airport lease application N–44642.

FOR FURTHER INFORMATION CONTACT: Ben Collins, District Manager, Las Vegas District Office, P.O. Box 26569, Las Vegas, NV 89126 (702) 647–5000.

EFFECTIVE DATE: April 5, 1991.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2091.3–2(a)(2), the segregative effect, as it pertains to the following described lands, will terminate on April 5, 1991:

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
sec. 17, N½, E½SW¼, NW¼SW¼, E½SW¼, NW¼SW¼, N½SE¼, SW¼SE¼.

The airport lease application was filed on August 22, 1986, at which time the lands became segregated from all forms of appropriation. On March 26, 1991, the applicant of record, John L. Curtis, withdrew this portion of his airport lease application so that BLM could proceed with an exchange proposal pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716).

At 10 a.m., on April 5, 1991, the above-described lands will become open only to disposal pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), for the purpose of consummating an exchange, subject to any valid existing rights, the provision of existing withdrawals, and the requirements of applicable laws, rules, and regulations. The land will remain closed to all other forms of appropriation including the mining laws.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 91–7976 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–HC–M

[G–030–G1–0301–3110–10–G999; NMNM 69994–10 et al.]

Issuance of Exchange Conveyance Document; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States issued an exchange conveyance document to the Nature Conservancy on January 17, 1990, for the surface and mineral (excluding geothermal) estates in and under the following described land in Dona Ana County, New Mexico, pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716):

New Mexico Principal Meridian

NMNM 69994–10

T 23 S., R. 3 E.,
sec. 19, lots 1 and 5, E½NE¼SE¼NW¼, E½NW¼NE¼SE¼NW¼, SW¼NE¼SE¼NW¼, and SE¼SE¼NW¼.
Containing 76.75 acres.

In exchange for the surface and mineral interests in the above-described land, the United States acquired the surface estate in the following described land located within Eddy, Hidalgo, and Grant Counties, New Mexico:

New Mexico Principal Meridian

NMNM 69994–12

T. 16 S., R. 21 W.,
sec. 11, E½, SE¼NW¼, and NE¼SW¼;
sec. 12 NW¼, and W½SW¼;
sec. 14, N½N½.

NMNM 69994–08

T. 29 S., R. 21 W
sec. 16, SW¼NE¼SW¼, S½NW¼SW¼, S½SW¼, and W½SW¼SE¼;
sec. 21, S½SE¼;
sec. 27, S½SW¼;
sec. 28, E½, E½W½, and NW¼SW¼;
sec. 33, N½NE¼, N½S½NE¼, SE¼SE¼NE¼, and N½SW¼SW¼NE¼;
sec. 34, NW ¼, E½SW¼, E½W½SW¼, NW¼MW¼SW¼, and W½SE¼.

NMNM 69994–11

T. 25 S., R. 24 E.,
sec. 35, SW¼.

NMNM 69994–11

T. 26, S., R. 24 E.,
sec. 2, W½NW¼, and NW¼SW¼
sec. 3, NE¼SE¼ and S½SE¼;
sec. 10, NE¼NE¼.
Containing 2,555.00 acres.

The purpose of the exchange was to acquire non-Federal land which has high public values for wildlife habitat and recreation. The land in Grant County is adjacent to a Wilderness Study Area (WSA) and, therefore, will enhance the protection and preservation of the WSA.

Dated: March 26, 1991.

Kathy Eaton,

Acting State Director.

[FR Doc. 91–7977 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–FB–M

Fish and Wildlife Service

Meeting, Klamath Fishery Management Council

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss et seq.). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 1 p.m. to 6 p.m. on Monday, April 8, 1991.

PLACE: The meeting will be held at the Columbia River Red Lion Inn, 1401 North Hayden Island Drive, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006, Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

On April 8, the Council will hear technical reports on the 1991 outlook for water flows in the Klamath basin, and on harvest plans for spring and fall-run chinook salmon. The Council will discuss the long term plan for management of Klamath fish harvests, which is now out for public review, and will decide how to incorporate comments received. The Council will consider making recommendations to the Pacific Fishery Management Council on 1991 ocean fishery regulations, and to in-river fishery managers on spring chinook harvests. A public comment period is scheduled for 3 p.m.

Dated: March 27, 1991.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 91–8009 Filed 4–4–91; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–514 (Preliminary)]

Shop Towels From Bangladesh

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–514 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Bangladesh of shop towels, provided for in subheading 6307.10.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by May 13, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: March 29, 1991.

FOR FURTHER INFORMATION CONTACT: Mary Trimble (202–252–1193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on March 29, 1991, by counsel on behalf of Milliken & Company, LaGrange, Georgia.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary

to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on April 19, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Mary Trimble (202–252–1193) not later than April 17, 1991, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before April 23, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due April 24, 1991. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR § 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than April 25, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due April 26, 1991.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: April 1, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–7995 Filed 4–4–91; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative Notice to the Commission of Intent to Perform Interstate Transportation for Certain Nonmembers

Date: April , 1991.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agriculture cooperatives intending to perform nonmember, nonexempt, intrastate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Farmers Union Co-op Transport Inc.
(2) P.O. Box 160, Stetsonville, WI 54480
(3) N983 Highway 13, Stetsonville, WI 54480
(4) Larry Ray, P.O. Box 160, Stetsonville, WI 54480

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–8020 Filed 4–4–91; 8:45 am]

BILLING CODE 7035–01–M

Crosbyton Railway Co., Inc.—Operation Exemption—In Lubbock County, TX; Exemption

[Finance Docket No. 31838]

Crosbyton Railway Co., Inc. (CRI), a non-carrier, has filed a notice of exemption to operate approximately 1 mile of rail line between mileposts 2+1789.43 feet and 3+1789.43 feet, near Lubbock, in Lubbock County, TX.

CRI acquired the line in January 1991, after its abandonment by Crosbyton Railroad Company (CRC). *See* Docket No. AB–334 (Sub-No. 1X), *Crosbyton Railroad Company—Abandonment Exemption—In Lubbock and Crosby*

Counties, TX (not printed), served September 17, 1990. The 1-mile line was part of a 36.14-mile line that CRC had acquired in 1989 from The Atchison, Topeka, and Santa Fe Railway Company (ATSF). *See* Finance Docket No. 31581, *Crosbyton Railroad Company—Acquisition and Operation Exemption—Line of The Atchison, Topeka and Santa Fe Railway Company* (not printed), served January 12, 1990.

Any comments must be filed with the Commission and served on: Jerry Gregg, Crosbyton Railway Co., Inc., 9911 Neiman Road, Overland Park, KS 66214.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 27, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-8027 Filed 4-4-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

JTPA Indian and Native American Reporting Revisions for Program Years 1991 and 1992

ETA 8600, 8601, 8602, 8603, 8604, 9030 and 9031

Form No.	Affected public	Respondents	Frequency	Average time per response
Master Agreement	Indian Grantees	200	1	3 min.
Narrative	do	200	1	22 hrs.
ETA 8600	do	200	1	17 hrs. 25 min.
ETA 8601	do	200	1	18 hrs. 9 min.
ETA 8600 (Summer)	do	130	1	15 hrs.
ETA 8601 (Summer)	do	130	1	15 hrs. 50 min.
ETA 9030	do	140	1	30 min.
ETA 9031	do	10	1	15 min.
ETA 8602	do	200	3	7 hrs. 45 min.
ETA 8603	do	200	3	9 hrs. 40 min.
ETA 8602 (Summer)	do	130	1	7 hrs. 45 min.
ETA 8603 (Summer)	do	130	1	9 hrs. 40 min.
ETA 8604	do	200	1	22 hrs. 26 min.
New Reading Level Data	do	200	1	3 hrs. 19 min.
One-time System Redesign	do	200	1	7½ hrs.
34,927 total hours				

These forms are used to manage the national programs authorized under section 401 of the Job Training Partnership Act. These documents are the principal sources of program plans and performance data. They form the basis for the award of funds, Federal oversight and reports to Congress.

Pension and Welfare Benefits Administration

Certain Employee Benefit Plan Foreign Exchange Transactions

Recordkeeping

Individuals or households; Businesses or other for-profit

1 hour; 1 respondent; 1 hour per response

The proposed class exemption, if granted, would permit purchases and sales of foreign currencies between employee benefit plans and certain banks and their affiliates which are parties in interest with respect to such plans.

Extension

Mine Safety and Health Administration
Form 7000–2, Quarterly Mine Employment and Coal Production Report
1219–0006
Quarterly
Business and other for profit; small business or organizations
84,560 responses, 0.25 hour per response, 21,140 burden hours

Requires mine operators to report to MSHA quarterly employment levels and coal production. The employment and production data when correlated with the accident data provides information for making decisions on improving safety and health enforcement programs, improving education and training efforts, and establishing priorities in technical assistance activities in safety and health.

Signed at Washington, DC this 2nd day of April 1991.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 91–8033 Filed 4–4–91; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

Investigation Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 15, 1991.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 15, 1991.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 25th day of March 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
AES Interconnects (IUE)	Kirkland, IN	03/25/91	03/09/91	25,585	Auto Lamp Sockets.
Air Baby, Inc. (Wkrs)	Blauvelt, NY	03/25/91	03/11/91	25,586	Slippers.
C.R.L. Components (AIW)	W Allis, WI	03/25/91	02/27/91	25,587	Membrane Switches.
Cluett Peabody Co., Inc. (Wkrs)	Atlanta, GA	03/25/91	03/13/91	25,588	Shirts.
Comair Rotron Inc. (Wkrs)	Saugerties, NY	03/25/91	02/26/91	25,589	Fans & Blowers.
DX Imaging (Wkrs)	Lionville, PA	03/25/91	03/13/91	25,590	Electrostatic.
Federal Mogul Corp. (Wkrs)	Blacksburg, VA	03/25/91	03/11/91	25,591	Bearings for Autos.
Georgia Kaolin Co., ECC Intl. (Wkrs)	Atlanta, GA	03/25/91	03/04/91	25,592	Clay Minerals.
Goss & Deleeuw Machine Co. (Wkrs)	Kensington, CT	03/25/91	03/04/91	25,593	Automatic Machines.
Hercules, Inc. (OCAW)	Burlington, NJ	03/25/91	03/11/91	25,594	Resins & Plasticizers.
Hughes Optical Products, Inc. (Wkrs)	Des Plaines, IL	03/25/91	03/07/91	25,595	Optical Subassemblies.
ITT/SWF Auto Electric Div	Selmer, TN	03/25/91	03/11/91	25,596	Auto Components.
Jane Darling Dresses, Inc. (ILGWU)	New York, NY	03/25/91	03/09/91	25,597	Dresses.
Joneco, Inc. (Company)	Kingfield, ME	03/25/91	03/12/91	25,598	Houseware.
Joneco, Inc. (Company)	North Anson, ME	03/25/91	03/12/91	25,599	Houseware.
Kal Drilling, Inc. (Wkrs)	Oklahoma City, OK	03/25/91	03/15/91	25,600	Oil & Gas.
Lightolier Inc.-Norwich Mfg. Div. (IBEW)	Norwich, CT	03/25/91	03/07/91	25,601	Lighting Fixtures.
Mould Services, Inc. (Wkrs)	Malden, MA	03/25/91	03/13/91	25,602	Footwear Molds.
Northern Paper Div. (Wkrs)	E Millinocket, ME	03/25/91	02/06/91	25,603	Paper.
Northern Paper Div. (Wkrs)	E Millinocket, ME	03/25/91	02/06/91	25,604	Paper.
Peckham Ind's (Wkrs)	Oconto, WI	03/25/91	03/12/91	25,605	Shoes.
Pratt & Whitney Co. (Wkrs)	Worcester, MA	03/25/91	03/11/91	25,606	Grinding Machines.
Revere Transducers Inc. (Wkrs)	Wallingford, CT	03/25/91	03/15/91	25,607	Transducers.
Rockwell Intl./TA Div. (Wkrs)	New Castle, PA	03/25/91	03/13/91	25,608	Spindle Knuckles.
Tag Agri Development (USA) Limited (Wkrs)	Plattsburgh, NY	03/25/91	03/09/91	25,609	Product Vegetables.
Waterville Knitting	Waterville, NY	03/25/91	03/11/91	25,610	Sweaters.

[FR Doc. 91–8029 Filed 4–4–91; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-25,257]

Lone Star Industries, Incorporated, Houston, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Lone Star Industries, Incorporated, Houston, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-25,257; Lone Star Industries, Incorporated, Houston, Texas (March 22, 1990)

Signed at Washington, DC this 26th day of March 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-8030 Filed 4-4-91; 8:45 am]

BILLING CODE 4510-30-M

Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directors, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Attestation Process

The Employment and Training Administration has established a voice-mail service for the H-1A nurse attestation process. Call Telephone Number: 202-535-0643 (this is not a toll-free number). At that number, a caller can:

(1) Listen to general information on the attestation process for H-1A nurses;

(2) Request a copy of the Department of Labor's regulations (20 CFR part 655, subparts D and E, and 29 CFR part 504, subparts D and E) for the attestation process for H-1A nurses, including a copy of the attestation form (form ETA 9029) and the instructions to the form;

(3) Listen to information on H-1A attestations filed within the preceding 30 days;

(4) Listen to information pertaining to public examination of H-1A attestations filed with the Department of Labor;

(5) Listen to information on filing a complaint with respect to a health care facility's H-1A attestation (however, see the telephone number regarding complaints, set forth below); and

(6) Request to speak to a Department of Labor employee regarding questions not answered by Nos. (1) through (4) above.

Regarding the Complaint Process

Questions regarding the complaint process for the H-1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202-523-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H-1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 22nd day of March 1991.

Robert A. Schaerfl,

Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS

[03/11/91 to 03/22/91]

CEO—Name/facility name/address	State	Approval date
Ms. Louise M. Bjornstad, Alaska Surgery Center 4001 Laurel Street, Anchorage, AK 99508, 907-563-3327.	AK	03/19/91
Mr. Timothy E. Hill, St. Louis-Little Rock Hosps., 11401 Interstate 30, Little Rock, AR 72209, 501-455-7100.	AR	03/14/91
Mr. George Perez, Walter O. Boswell Memorial Hosp., Sun Health Corporation, Sun City, AZ 85351, 602-977-7211.	AZ	03/14/91
Mr. Dan Frank, Community Hospital Med. Ctr., 6501 No. 19th Ave., Phoenix, AZ 85015, 602-249-3434.	AZ	03/19/91
Mr. William A. Markey, Chinese Hospital, 845 Jackson Street, San Francisco, CA 94133, 415-677-2499.	CA	03/11/91

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[03/11/91 to 03/22/91]

CEO—Name/facility name/address	State	Approval date
Mr. Rick Lyons, Valley Hospital Medical Center, 13500 Sherman Circle, Van Nuys, CA 91405, 818-908-8708.	CA	03/11/91
Ms. Marylin L. Stephens, Procel Temporary Services, Inc., 901 N. Pacific Coast Hwy., Redondo Beach, CA 90277, 213-372-0560.	CA	03/11/91
Mr. Harvey Rudisaile, White Memorial Medical Center, 1720 Brooklyn Ave., Los Angeles, CA 90033, 213-268-5000.	CA	03/11/91
Mr. Louis Kraml, San Benito Hosp. District d.b.a., Hazel Hawkins Memorial Hosp., Hollister, CA 95023, 408-637-5711.	CA	03/13/91
Mr. Marvin L. Herschberg, d.b.a. Pacifica Community Hosp., 18792 Delaware St., Huntington Beach, CA 92648, 714-842-0611.	CA	03/14/91
Mr. Jerry E. Gillman, Westside Hospital, 910 S. Fairfax Avenue, Los Angeles, CA 90036, 213-938-3431.	CA	03/14/91
Mr. J.E. "Ted" Stibbards, Children's Hosp. Los Angeles, Los Angeles, CA 90027 213-660-2450.	CA	03/14/91
Mr. Daniel P. McLean, Alvarado Hosp. Med. Ctr., 6655 Alvarado Road, San Diego, CA 92120, 619-229-3107.	CA	03/14/91
Mr. Gustavo A. Valdespino, Los Alamitos Med. Ctr., 3751 Katella Ave., Los Alamitos, CA 90720, 213-598-1311.	CA	03/14/91
Mr. William W. Carpenter, Alexian Brothers Hospital, 225 N. Jackson Avenue, San Jose, CA 95116, 408-259-5000.	CA	03/14/91
Mr. Greg Monardo, Davies Medical Center, Castro & Duboce, San Francisco, CA 94114, 415-565-6003.	CA	03/14/91
Mr. Vincent Guinan, St. Vincent Medical Ctr., 2131 West Third Street, Los Angeles, CA 90057, 213-484-7033.	CA	03/14/91
Mr. Kenneth Willes, Parkview Comm. Hosp. Med. Ctr., 3865 Jackson Street, Riverside, CA 92503, 714-688-2211.	CA	03/14/91
Mr. Armando Lopez, Jr., Los Angeles County—Rancho Los Amigos Medical Center, Downey, CA 90242, 213-940-7911.	CA	03/19/91
Mr. Blair Sadler, Children's Hosp. & Health Ctr., 8001 Frost Street, San Diego, CA 92123, 619-576-5827.	CA	03/19/91
Mr. Fred Manchur, San Joaquin Community Hosp., 2115 Eye St., Bakersfield, CA 93301, 805-395-3000.	CA	03/19/91
Mr. John H. Westerman, The Hospital of the Good Samaritan, 616 S. Witmer St., Los Angeles, CA 90017, 213-977-2301.	CA	03/19/91
Mr. Stanley C. Oppegard, Methodist Hospital of Sacramento, 7500 Timberlake Way, Sacramento, CA 95823, 916-423-3000.	CA	03/19/91
Mr. Ralph L. Parks, Victor Valley Comm. Hosp., 15248 Eleventh Street, Victorville, CA 02302, 619-245-8691.	CA	03/19/91
Sister Ruth Marie Nickerson, Saint Agnes Medical Center, 1303 Herndon Avenue, Fresno, CA 93720, 209-449-3000.	CA	03/19/91
Ms. Anna C. Mullins, Seton Medical Ctr., 1900 Sullivan Ave., Daly City, CA 94015, 415-991-6829.	CA	03/19/91
Med. Ctr. of North Hollywood, 12629 Riverside Dr., North Hollywood, CA 91607, 818-509-9981.	CA	03/14/91
Mr. John H. Tobin, Waterbury Hosp. Health Ctr., 64 Robbins Street, Waterbury, CT 06721, 203-573-7198.	CT	03/14/91
Sister Daniel Marie McCabe, St. Joseph Medical Center, 128 Strawberry Hill Avenue, Stamford, CT 06904, 203-353-2000.	CA	03/14/91
Mr. Robinson Abraham, Health Management Inc., 1828 L St. NW., Suite 908, Washington, DC 20036, 202-887-8110.	DC	03/11/91
Ms. Josefina Lardizabal, GEM Care Center, 550 9th Street, Miami Beach, FL 33139, 305-531-3321.	FL	03/19/91
Mr. Kevin C. Clark, Cross Country Healthcare Per., 1515 South Federal Highway, Boca Raton, FL 33432, 800-347-2264.	FL	03/22/91
Mr. James S. Elmsie, MRA Staffing Systems, Inc., 7771 West Oakland Park Blvd., Ft. Lauderdale, FL 33351, 800-327-2759.	FL	03/22/91
Sister Beatrice Tom, St. Francis Med. Ctr., 2230 Liliha St., Honolulu, HI 96817, 808-547-6011.	HI	03/11/91
John Schleif, Kapiolani Med. Ctr. for Women & Children, Honolulu, HI 96826, 808-973-8511.	HI	03/14/91
Mr. Edward Lynn, Jennie Edmundson Memorial Hosp., 933 E. Pierce, Council Bluffs, IA 51503, 712-328-6000.	IA	03/19/91
Mr. Alan Stevenson, Moritz Community Hospital, Sun Valley Rd., Sun Valley, ID 83353, 208-622-3323.	ID	03/11/91
Sister Teresa Mary Clarkson, Holy Cross Hospital, 2701 W. 68th Street, Chicago, IL 60602, 312-471-8000.	IL	03/11/91
Sister Elizabeth Van Straten, St. Bernard Hospital, 64th & Dan Ryan Expressway, Chicago, IL 60621, 312-962-3900.	IL	03/14/91
Mr. Kevin S. Wardell, Lutheran General Hosp., Inc., 1775 Dempster Street, Park Ridge, IL 60068, 708-696-6525.	IL	03/14/91
Mr. Jay Lewkowitz, Oakton Pavillion Healthcare Facility, Inc., Des Plaines, IL 60018, 708-299-5588.	IL	03/19/91
Mr. Richard Brennan, Grant Hospital of Chicago, 550 W. Webster, Chicago, IL 60614, 312-883-3500.	IL	03/19/91
Ms. Allison C. Laabs, St. John's Hospital, 800 East Carpenter Street, Springfield, IL 62769, 214-544-6464.	IL	03/19/91
Mr. A. Jason Geisinger, First Health Care Corp., d.b.a. Eagle Pond Nursing Home, Dennis, MA 02660, 508-385-6034.	MA	03/13/91
Mr. Michael J. Geaney, Jr., Salem Hospital, 81 Highland Avenue, Salem, MA 01970, 508-741-1215.	MA	03/14/91
Mr. A. Jason Geisinger, First Health Care Corp., d.b.a Walden House Healthcare, Concord, MA 01742, 508-369-6889.	MA	03/19/91
Sister Gertrude Mary, Little Sisters of the Poor, Inc., 186 Highland Avenue, Somerville, MA 02143, 617-776-4420.	MA	03/19/91
Mr. Raymond D. Sanzone, Tewksbury Hospital, East St., Tewksbury, MA 01876, 508-851-7321.	MA	03/19/91
Ms. Marilyn Riddle, The Rehabilitation Hosp. of Western New England, Ludlow, MA 01056, 413-589-7581.	MA	03/21/91
Ms. Constance F. Row, The Union Memorial Hosp., 201 East University Parkway, Baltimore, MD 21218, 301-554-2543.	MD	03/19/91
Mr. George P. Caralis, Grace Hospital, 6071 West Outer Drive, Detroit, MI 48235, 313-966-3473.	MI	03/19/91
Mr. Randy S. Wertz, Golden Valley Memorial Hospital, Junction Highway 7&13 North, Clinton, MO 64735, 816-885-5511.	MO	03/21/91
Mr. A. Jason Geisinger, First Health Care Corp., d.b.a. Hillhaven-LaSalle Nursing Center, Durham, NC 27705, 919-383-5521.	NC	03/19/91

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[03/11/91 to 03/22/91]

CEO—Name/facility name/address	State	Approval date
Mr. Irv J. Diamond, South Amboy Memorial Hospital, Community Mental Health Ctr., South Amboy, NJ 08879, 908-721-1000.	NJ	03/11/91
Mr. Laurence M. Merlis, East Orange General Hospital, 300 Central Avenue, East Orange, NJ 07019, 201-672-8400.	NJ	03/11/91
Mr. Joseph Trunfio, St. Clare's Riverside Med. Ctr., Pocono Road, Denville, NJ 07834, 201-625-6671.	NJ	03/11/91
Mr. Frank L. Muddle, Irvington General Hospital, 832 Chancellor Avenue, Irvington, NJ 07111, 201-399-6131.	NJ	03/11/91
Mr. Edward Lewis, Bergen Pines County Hospital, East Ridgewood Ave., Paramus, NJ 07652, 201-967-4000.	NJ	03/14/91
Mr. Charles Blatchley, Monmouth Medical Center, 300 Second Avenue, Long Branch, NJ 07740, 201-870-5012.	NJ	03/14/91
Mr. Daniel A. Kane, Englewood Hospital, 350 Engle Street, Englewood, NJ 07631, 201-894-3000.	NJ	03/14/91
Mr. Jack De Cerce, Centra-State Med. Ctr., West Main Street, Freehold, NJ 07728, 908-431-2000.	NJ	03/14/91
Mr. John G. Magliaro, Columbus Hosp., 495 North 13th Street, Newark, NJ 07107, 201-268-1495.	NJ	03/14/91
Sister Jane Frances Brady, St. Joseph's Hosp. & Medical Ctr., 703 Main Street, Peterson, NJ 07503, 201-977-2000.	NJ	03/14/91
Mr. Daniel L. Marcantuono, The General Hosp. Ctr. at Passaic, 350 Boulevard, Passaic, NJ 07055, 201-365-4300.	NJ	03/14/91
Mr. Arthur T. Dunn, The Hospital Center at Orange, 188 South Essex Avenue, Orange, NJ 07050, 201-266-2292.	NJ	03/14/91
Mr. John K. Pawlowski, Riverview Medical Center, One Riverview Plaza, Red Bank, NJ 07701, 908-741-2700.	NJ	03/15/91
Mr. William K. Hogan, Helene Fuld Medical-Center, 750 Brunswick Avenue, Trenton, NJ 08638, 609-394-6000.	NJ	03/19/91
Mr. Louis R. Ycre, Jr., Pascack Valley Hospital, Old Hook Road, Westwood, NJ 07675, 201-358-3010.	NJ	03/19/91
Mr. Blanche Bonifacio, M&B Bonifacio, Inc., d.b.a. Beverwyck Nursing Home, Parsippany, NJ 07054, 201-887-0156.	NJ	03/19/91
Myrtle McDowell, St. Mary's Regional Med. Center, 235 West Sixth Street, Reno, NV 89520, 702-323-2041.	NV	03/14/91
Mr. Michael Rodzenko, South Nassau Communities Hosp., 2445 Oceanside Road, Oceanside, NY 11572, 516-763-3930.	NY	03/11/91
Pearl Resnick, Pearl Resnick, 785 Fifth Avenue, Apt. 4A, New York, NY 10022, 212-832-1277.	NY	03/13/91
Mr. Daniel Leahey, Terence Cardinal Cooke Health Care Center, New York, NY 10029, 212-360-3620.	NY	03/14/91
Mr. Percy Allen, II, State University of N.Y. Health Science Ctr. of Brklyn., Brooklyn, NY 11203, 718-270-1000.	NY	03/14/91
Sister Helen Murphy, New York Foundling Hosp. Ctr. for Pediatric, Med. & Rehab. Care, Inc., New York, NY 10011, 212-633-9300.	NY	03/14/91
Mr. Peter J. Hughes, NYU Medical Center, 560 First Avenue, New York, NY 10016, 212-263-6658.	NY	03/14/91
Ms. Tracy E. Strevey, Jr., Nassau County Med. Ctr., 2201 Hempstead Turnpike, East Meadow, NY 11554, 516-542-2301.	NY	03/14/91
Florence Nightingale Nursing, 1760 Third Avenue, New York, NY 10029, 212-410-8700.	NY	03/19/91
Mr. Israel Lefkowitz, Palm Gardens Nursing Home, 615 Avenue C, Brooklyn, NY 11218, 718-633-3300.	NY	03/19/91
Mr. Victor Frankel, Hospital for Joint Diseases, 301 East 17th Street, New York, NY 10003, 212-598-6000.	NY	03/19/91
Mr. Donald Davis, Northern Westchester Hosp. Ctr., 400 Main Street, Mount Kisco, NY 10549, 914-666-1241.	NY	03/19/91
Mr. Fletcher H. McDowell, The Burk Rehabilitation Center, 785 Mamaroneck Avenue, White Plains, NY 10605, 914-948-0050.	NY	03/19/91
Mr. James Davis, Amsterdam Nursing Home Corporation, 1060 Amsterdam Avenue, New York, NY 10025, 212-678-2600.	NY	03/19/91
Mr. Michael New, Sephardic Home for the Aged, 2266 Cropsey Avenue, Brooklyn, NY 11214, 718-266-6100.	NY	03/19/91
Ms. Debra A. Sabato, Cedar Manor Nursing Home, P.O. Box 928 Cedar Lane, Ossining, NY 10562, 914-762-1600.	NY	03/19/91
Ms. Gladys George, Lenox Hill Hospital, 100 East 77th Street, New York, NY 10021, 212-439-2010.	NY	03/19/91
Mr. Frederick D. Alley, Brooklyn Hosp. Ctr., 121 DeKalb Avenue, Brooklyn, NY 11201, 718-403-8025.	NY	03/19/91
Mr. Sanford H. Rexon, Queens Nassau Nursing Home, Inc., 520 Beach 19th Street, Far Rockaway, NJ 11691, 718-471-7400.	NY	03/19/91
Mr. Edward Sylcox, Jr., Sylcox Nursing Home, 56 Meadow Hill Road, Newburgh, NY 12550, 914-564-1700.	NY	03/19/91
Mr. Harvey Finkelstein, W.K. Nursing Home Corp., 100 West Kingsbridge Rd., Bronx, NY 10468, 212-870-5000.	NY	03/20/91
Mr. John W. Ruth, Deepdale General Hospital, Inc., 55-15 Little Neck Pkwy., Little Neck, NY 11362, 718-428-3000.	NY	03/22/91
Mr. Warren Falberg, The Jewish Hosp. of Cincinnati, 3200 Burnet Avenue, Cincinnati, OH 45229, 513-569-2000.	OH	03/14/91
Mr. William T. Payne, Presbyterian Med. Ctr. of Philadelphia, Philadelphia, PA 19104, 215-662-8718.	PA	03/19/91
Mr. Jerome S. Tannenbaum, Ren Corporation—USA, 6820 Charlotte Pike, Nashville, TN 37209, 615-353-4200.	TN	03/19/91
Mr. Charles M. Brosseau, Harris Methodist Fort Worth, 1301 Pennsylvania Avenue, Fort Worth, TX 76104, 817-882-2000.	TX	03/14/91
D.M. McBridge, Sun Belt Regional Medical Center, 13111 East Freeway, Houston, TX 77015, 713-450-0342.	TX	03/14/91
Mr. E.J. Pederson, The University of Texas Med. Ctr., Jennifer Inda—Inter'l Officer, Galveston, TX 77550, 409-761-3733.	TX	03/14/91
Mr. Charles A. LeMaistre, The University of Texas M.D., Anderson Cancer Ctr., Houston, TX 77030, 713-792-8030.	TX	03/14/91
Mr. Bryant H. Krenek, AMI Nacogdoches Med. Ctr. Hosp., 4920 NE Stallings, Nacogdoches, TX 75961, 409-569-9481.	TX	03/14/91

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[03/11/91 to 03/22/91]

CEO—Name/facility name/address	State	Approval date
Mr. Richard Livengood, Providence Memorial Hospital, 2001 North Oregon St., El Paso, TX 79902, 915-542-6662.	TX	03/19/91
Mr. Jeptha W. Dalston, Hermann Hospital, 6411 Fannin, Houston, TX 77030, 713-797-3000.	TX	03/19/91
Mr. Michael C. Waters, Hendrick Medical Center, 1242 North 19th Street, Abilene, TX 79601, 915-670-2000.	TX	03/19/91
Mr. Andrew M. Harris, Henderson Memorial Hosp., 300 Wilson St., Henderson, TX 75652, 903-657-7541.	TX	03/19/91
Mr. George Belsey, University of Utah Health Sciences Hospital, Salt Lake City, UT 84132, 801-581-2121.	UT	03/19/91
Mr. Treuman Katz, Children's Hosp. & Med. Ctr., 4800 Sand Point Way NE, Seattle, WA 98105, 106-526-2111.	WA	03/19/91
Total Attestations—105		

[FR Doc. 91-8034 Filed 4-4-91; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards, Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects on a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and House Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Georgia, GA91-39 (Apr. 5, 1991). p. 302a, p. 302b.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut, CT91-1 (Feb. 22, 1991).	p. 63, p. 64-65.
Florida, FL91-17 (Feb. 22, 1991)).	p. 141, p. 142.
North Carolina	
NC91-15 (Feb. 22, 1991).	p. 639, p. 640.
NC91-17 (Feb. 22, 1991).	p. 643, p. 644.
NC91-20 (Feb. 22, 1991).	p. 649, p. 650.
New Jersey NJ91-2 (Feb. 22, 1991).	p. 701, p. 702.
New York:	
NY91-3 (Feb. 22, 1991).	p. 797, p. 798.
NY91-13 (Feb. 22, 1991).	p. 901, p. 902.

Volume II

Iowa, IA91-2 (Feb. 22, 1991).	p. 29, p. 30.
Indiana, IN91-1 (Feb. 22, 1991).	p. 243, p. 246.
Ohio, OH91-2 (Feb. 22, 1991).	p. 821, pp. 822, 825-826, 830-831, 835.

Volume III

Arizona, AZ91-2 (Feb. 22, 1991).	p. 15, p. 17.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50

Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC. 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC. this 29th Day of March 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91–7835 Filed 4–4–91; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on Petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a dimunition of safety to the affected miners.

Summaries if petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons and a field investigation of the conditions at the mine. MSHA has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the pubic in the Office of Standards, Regulations and Variances, MSHA, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Affirmative decisions on Petitions for Modification

Docket No.: M–88–81–C.
FR Notice: 53 FR 21936.
Petitioner: Drummond Coal, Inc.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to install and maintain a low-level carbon monoxide detection system in all belt entries used as intake aircourses considered acceptable alternate method. Granted with conditions.

Docket No.: M–88–224–C.
FR Notice: 53 FR 53084.
Petitioner: Old Ben Coal Company.
Reg Affected: 30 CFR 75.216–3(a).
Summary of Findings: Petitioner's proposal that impoundments be examined for structural weakness or other hazards on a monthly basis considered acceptable alternate method. Granted with conditions.

Docket: M–88–230–C.
FR Notice: 54 FR 870.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.1100–2(b).
Summary of Findings: Petitioner's proposal to keep the waterline and outlets in the track entry which is adjacent to the belt entry (headgate entry) is considered acceptable alternate method. Granted with conditions.

Docket No.: M–88–237–C.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to use the air in the belt entry to ventilate active working places and planned longwall panel, and to install an early warning fire detection system utilizing a low-level carbon monoxide detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M–88–238–C.
FR Notice: 54 FR 871.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.1103–4
Summary of Findings: Petitioner's proposal to install an early warning fire detection system utilizing a low-level carbon monoxide detection system in all belt entries used as intake aircourses with specific conditions considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–13–C.
FR Notice: 54 FR 7302.
Petitioner: Island Creek Coal Company.
Reg. Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to use belt haulage entries as intake aircourses in continuous and longwall mining sections and install an early warning fire detection system utilizing a low-level carbon monoxide detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–32–C.
FR Notice: 54 FR 12301.
Petitioner: Sea "B" Mining Company.
Reg Affected: 30 CFR 75.1710.
Summary of Findings: Use of cabs and canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.

Docket No.: M–90–47–C.
FR Notice: 55 FR 13336.
Petitioner: Enlow Fork Mining Company.
Reg Affected: 30 CFR 75.1101–8.
Summary of Findings: Petitioner's proposal to use a single overhead pipe system considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–39–C.
FR Notice: 54 FR 18709.
Peitioner: Leeco, Inc.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to use air in the belt entry to ventilate active working places and install an early warning fire detection system utilizing a low-level carbon monoxide detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–40–C.
FR Notice 54 FR 18811.
Petitioner: Leeco, Inc.
Reg Affected: 30 CFR 75.1103–4.
Summary of Findings: Petitioner's proposal to use air in the belt entry to ventilate active working places and install an early warning fire detection system utilizing a low-level carbon monoxide detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–61–C.
FR Notice: 54 FR 22640.

Petitioner: Sextet Mining Company, Inc.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to use air in the belt entry to ventilate active working places and to install an early warning fire detection system utilizing a low-level carbon monoxide detection systems considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–64–C.
FR Notice: 54 FR 23719.
Petitioner: Blue Diamond Mining, Inc.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to use air in the belt entry to ventilate active working places and to install an early warning fire detection system utilizing a low-level carbon monoxide detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–65–C.
FR Notice: 54 FR 23719.
Petitioner: Blue Diamond Mining, Inc.
Reg Affected: 30 CFR 75.1103–4(a).
Summary of Findings: Petitioner's proposal to use air in the belt entry to ventilate active working places and to install an early warning fire detection system utilizing a low-level carbon monoxide detection system in all belt entries used as intake aircourses with specific conditions considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–111–C.
FR Notice: 54 FR 37036.
Petitioner: Hansford Smokeless Collieries, Inc.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to use air velocities in excess of 300 feet per minute in belt conveyor entries considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–114–C.
FR Notice: 54 FR 37038.
Peitioner: Westmoreland Coal Company.
Reg Affected: 30 CFR 75.1103–4(a).
Summary of Findings: Petitioner's proposal to use air velocities in excess of 300 feet per minute in belt conveyor entries considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–115–C.
FR Notice: 54 FR 37038.
Petitioner: Westmoreland Coal Company.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to use air velocities in excess of 300 feet per minute in belt conveyor entries considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–116–C.
FR Notice: 54 FR 35732.
Petitioner: Webster County Coal Corporation.
Reg Affected: 30 CFR 75.1102–4(a).
Summary of Findings: Petitioner's proposal to install a carbon monoxide monitoring device to provide identification of fire within each belt flight considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–119–C.
FR Notice: 54 FR 37843.
Petitioner: Westmoreland Coal Company.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to use air velocities in excess of 300 feet per minute in belt conveyor entries in its mine considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–130–C.
FR Notice: 54 FR 36570.
Petitioner: Westmoreland Coal Company.
Reg Affected: 30 CFR 75.1103–4.
Summary of Findings: Petitioner's proposal to use air velocities in excess of 300 feet per minute in belt conveyor entries in its mine considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–131–C.
FR Notice: 54 FR 38571.
Petitioner: Westmoreland Coal Company.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to use air velocities in excess of 300 feet per minute in belt conveyor entries in its mine considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–137–C.
FR Notice: 54 FR 38570.
Petitioner: Sextet Mining Corporation.
Reg Affected: 30 CFR 75.1103–4.
Summary of Findings: Petitioner's proposal to install a low-level carbon monoxide detection system in the belt entries in lieu of the heat type sensors considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–160–C.
FR Notice: 54 FR 47595.
Petitioner: Western Fuels-Utah, Inc.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to course air ventilating electrical installations into a belt entry where a return is not available considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–174–C.
FR Notice: 55 FR 1295.
Petitioner: Bodie Mining, Inc.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to use the air in the belt entry to ventilate active working places and to install an early warning fire detection system utilizing a low-level carbon monoxide detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M–89–185–C.
FR Notice: 54 FR 53396.
Petitioner: Skyview Coal Company.
Reg Affected: 30 CFR 75.301.
Summary of Findings: Proposed airflow reduction, which would maintain a safe and healthful atmosphere considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–03–C.
FR Notice: 55 FR 4736.
Petitioner: Eastern Associated Coal Corporation.
Reg Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal to seal and mine through oil and gas wells considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–20–C.
FR Notice: 55 FR 6072.
Petitioner: Island Creek Coal Company.
Reg Affected: 30 CFR 75.507.
Summary of Findings: Petitioner's proposal to use a nonpermissible submersible pump to drain water from the sump located in the return considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–21–C.
FR Notice: 55 FR 5905.
Petitioner: Mountain Run Enterprises.
Reg Affected: 30 CFR 75.301.
Summary of Findings: Proposed airflow reduction, which would maintain a safe and healthful atmosphere considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–27–C.
FR Notice: 55 FR 8618.
Petitioner: Bodie Mining, Inc.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to use air in the belt entry to ventilate active working places and to install an early warning fire detection system utilizing a low-level carbon monoxide detection system considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–32–C.
FR Notice: 55 FR 9376.
Petitioner: BethEnergy Mines, Inc.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to install a pump station in a neutral aircourse in lieu of ventilating the station to the return considered

acceptable alternate method. Granted with conditions.

Docket No.: M–90–36–C.
FR Notice: 55 FR 10014.
Petitioner: Hanna Coal Contractors.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connection device for the 2-view hoist considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–42–C.
FR Notice: 55 FR 11070.
Petitioner: Peabody Coal Company.
Reg Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal to use a nonpermissible haulage motor, rail and trolley wire within 150 feet of the longwall face for the purpose of removing the shearer considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–44–C.
FR Notice 55 FR 11453.
Petitioner: R.S. Coal Company.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–45–C.
FR Notice: 55 FR 13338.
Petitioner: Western Fuels-Utah, Inc.
Reg Affected: 30 CFR 75.507.
Summary of Findings: Petitioner's proposal to install a nonpermissible submersible pump in the borehole into the longwall gob considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–47–C.
FR Notice: 55 FR 13336.
Petitioner: Enlow Fork Mining Company.
Reg Affected: 30 CFR 75.1101–8.
Summary of Findings: Petitioner's proposal to use a single overhead pipe system considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–49–C.
FR Notice: 55 FR 13337.
Petitioner: Webster County Coal Corporation.
Reg Affected: 30 CFR 75.1100–2(b).
Summary of Findings: Petitioner's proposal to install the waterline and fire hose outlets in the adjacent track or supply entry and to install fire hose outlets with unstricted access from the belt entry considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–50–C.
FR Notice: 55 FR 14020.
Petitioner: Enlow Fork Mining Company.
Reg Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal to seal and mine through the plugged oil or gas well considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–54–C.
FR Notice: 55 FR 15038.
Petitioner: Southern Light Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on permissible three-wheel battery-powered tractors used to load coal considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–64–C.
FR Notice: 55 FR 19808.
Petitioner: Poar Boy Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on permissible three-wheel battery-powered tractors used to load coal considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–66–C.
FR Notice: 55 FR 20347.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal to seal and mine through oil and gas wells considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–70–C.
FR Notice: 55 FR 21805.
Petitioner: Clinchfield Coal Company.
Reg Affected: 30 CFR 75.1710–1(a).
Summary of Findings: Use of cabs and canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.

[FR Doc. 91–8032 Filed 4–4–91; 8:45 am]
BILLING CODE 4510–43–M

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Baylor Rush, Inc.

[Docket No. M–91–24–C]

Baylor Rush, Inc., P.O. Box 32, Saint Clair, Pennsylvania 17910 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its No. 2 Slope (I.D. No. 36–01789) located in Schuykill County, Pennsylvania. The petitioner states that the use of automatic couplers on haulage equipment would result in a dimunition of safety to the miners.

2. Zeigler Coal Company

[Docket No. M–91–25–C]

Zeigler Coal Company, P.O. Box 73, Murdock, Illinois has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps) to its Murdock Mine (I.D. No. 11–00586) located in Douglas County, Illinois. The petitioner proposes to place electrical equipment in a neutral air course in lieu of ventilating the equipment to the return.

3. ACM Oklahoma, Inc.

[Docket No. M–91–26–C]

ACM Oklahoma, Inc., P.O. Box 657, Henryetta, Oklahoma 74437–0657 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Pollyanna No. 4 Mine (I.D. No. 34–01633) located in Okmulgee County, Oklahoma. The petitioner proposes to seal and mine through gas wells.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 6, 1991. Copies of the petitions are available for inspection at that address.

Dated: March 29, 1991.

Patricia W. Silvey,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 91–8031 Filed 4–4–91; 8:45 am]
BILLING CODE 4510–43–M

Occupational Safety and Health Administration

Targeted Training Grants

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.
ACTION: Notice of grant program.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has a grant program, Targeted Training, which awards funds to nonprofit organizations to address unmet needs for safety and health training and education in the workplace. This notice announces Targeted Training grant availability for training in the logging industry. The grant availability applies to all types of logging, including pulpwood harvesting and the logging of saw logs, bolts and other forest products. The notice describes the scope of the grant program and provides information on how to obtain a grant application. Applications should not be submitted without first obtaining the detailed grant application package mentioned later in the notice.

Authority for this program may be found in section 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670).

DATES: Applications must be received by May 17, 1991.

ADDRESSES: Grant applications must be submitted to the OSHA Regional Office for the state in which the applicant is located. A complete listing of Regional Offices can be found in the addendum at the end of the supplementary information section of this notice.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N3647, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background

Section 21(c) of the Occupational Safety and Health Act provides for the education and training of employers and workers in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions. OSHA has used a variety of approaches over the years to fulfill its responsibilities under this section, one of which is the awarding of grants to nonprofit organizations to provide training and education to workers and employers.

The Targeted Training Program is OSHA's current grant program for training and education of workers and employers. Its goals include educating small businesses, training in new OSHA standards, and training in areas of special emphasis or recognized high hazard areas. Organizations awarded grants under this program will be expected to develop training and/or educational programs which address a target named by OSHA, reach out to workers and employers for whom the program is appropriate, and provide them with the training and/or educational program. Success is measured by the number of individuals participating in the program and evidence of their increased hazard recognition and abatement or compliance with standards.

Scope

The purpose of this notice is to announce the availability of funds for grants which address worker safety in the logging industry, including pulpwood harvesting and the logging of saw logs, bolts and other forest products. Training programs should be carried out in close cooperation with people in the logging industry. It is expected that training will be conducted at logging sites by technical experts who are knowledgeable about safe work practices and who are responsive to changes in equipment and to the needs of the logging workforce.

Among the activities which may be supported under these grants are: Developing educational materials, conducting training, and conducting other educational activities designed to reach and inform workers.

Eligible Applicants

Any nonprofit organization which is not an agency of a State or local government is eligible to apply. For purposes of eligibility for this grant program, agencies of State and local governments do not include State or local government supported institutions of higher education. State or local government supported institutions of higher education are eligible to apply.

Nonsupportable Activities

Statutory and regulatory limitation, as well as the objectives of the grant program, prevent reimbursement for certain activities under these grants. These limitations include the following:

1. Any activities inconsistent with the goals and objectives of the Occupational Safety and Health Act of 1970.
2. Activities involving workplaces largely precluded from enforcement action under section 49(b)(1) of the Occupational Safety and Health Act.
3. Activities for the benefit of State, county or municipal employees.
4. Production, publication or reproduction of training and educational materials, including programs of instruction, which have not been approved by OSHA.
5. Lobbying.
6. Training and other educational activities that primarily address issues other than recognition, avoidance, and prevention of unsafe or unhealthful working conditions. Examples include activities concerning workers' compensation, first aid, and publication of materials prejudicial to labor or management.
7. Activities which promote logging production methods or equipment.
8. Activities which provide assistance to workers in arbitration cases or other actions against employers, or which provide assistance to employers and/or workers in the prosecution of claims against Federal, State or local governments.
9. Activities which directly duplicate service offered by OSHA, a State under a State Plan, or consultation programs provided by State designated agencies under section 7(c)(1) of the Act.
10. Activities directly or indirectly intended to generate membership in the grant recipients's organization.

Administrative Requirements

Grant recipients that develop curriculums and/or educational materials with grant funds will provide copies of the curriculums and/or educational materials to OSHA by the end of the grant period. The curriculums and materials will be in the public domain.

The grant program will be administered in compliance with 41 CFR part 29–70 and OMB Circulars A–110, A–133 and A–21 or A–122. All applicants will be required to certify to a drug-free workplace in accordance with 20 CFR part 98 and to comply with the New Restrictions on Lobbying published at 29 CFR part 93.

The program is subject to matching share requirements. Grant recipients will be expected to provide a minimum of 20% of the total grant budget. For example, if the Federal share of the grant is $80,000 (80% of the grant), then the matching share will be $20,000 (20% of the grant), for a total grant of $100,000. The matching share may exceed 20%.

Evaluation Process and Criteria

Applications for grants solicited in this notice will be evaluated on a competitive basis by the Assistant Secretary for Occupational Safety and Health with assistance and advice from OSHA staff.

The following factors, which are not ranked in order of importance, will be considered in evaluating grant applications.

1. Program Design

a. The plan to develop and implement a training and education program which addresses logging safety for workers.

b. The number of workers to be reached by the program.

c. The appropriateness of the planned activities for providing on-site safety training for loggers.

d. The plan for evaluating the program's effectiveness in achieving its objectives.

e. The feasibility and soundness of the proposed work plan in achieving the program objectives effectively.

2. Program Experience

a. Prior occupational safety and health experience of the organization.

b. Previous and current training or education programs conducted by the organization.

c. Technical and professional expertise of present or proposed project staff in logging.

3. Administrative Capability

a. Managerial expertise of the applicant as evidenced by the variety and complexity of current and/or recent programs it has administered.

b. Financial management capability of the applicant as evidenced by a recent report from an independent audit firm or a recent report from another independent organization qualified to render judgment concerning the soundness of the applicant's financial practices.

c. Evidence of the applicant's nonprofit status, preferably from the IRS.

d. The completeness of the application, including forms, budget detail, narrative and work plan, and required attachments.

4. Budget

a. The reasonableness of the budget in relation to the proposed program activities.

b. The proposed non-Federal share is at least 20% of the total budget.

c. The compliance of the budget with applicable Federal cost principles and with OSHA requirements contained in the grant application instructions.

Availability of Funds

There is approximately $341,000 available for this program. It is anticipated that the average Federal award will be $100,000. Grants will be awarded for a twelve-month period.

Application Procedures

Those organizations that meet the eligibility requirements described above and are interested in conducting project activities as described may request a grant application package from the OSHA Regional Administrator responsible for the state in which the organization is located. A list of the names, addresses, and geographic areas of responsibility of Regional Administrators is in the addendum to this notice.

All applications must be received no later than 4:30 p.m. local time, May 17, 1991.

Notification of Selection

Following review and evaluation, those organizations selected as potential grant recipients will be notified by a representative of the Assistant Secretary. An applicant whose proposal is not selected will also be notified in writing to that effect. Notice of selection as a potential grant recipient will not constitute approval of the grant application as submitted. Prior to the actual grant award, representatives of the potential grant recipient and OSHA will enter into negotiations concerning such items as program components, funding levels, and administrative systems. If negotiations do not result in an acceptable submittal, the Assistant Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Signed at Washington, DC, this 2nd day of April 1991.

Gerard F. Scannell,

Assistant Secretary of Labor.

Addendum

Region I

John B. Miles, Jr., Regional Administrator, U.S. Department of Labor-OSHA, 133 Portland Street, 1st Floor, Boston, Massachusetts 02114, (617) 565-7164—Connecticut, Maine Massachusetts, New Hampshire, Rhode Island, Vermont

Region II

James W. Stanley, Regional Administrator, U.S. Department of Labor-OSHA, 201 Varick Street, room 670, New York, New York 10014, (212) 335-2376—New Jersey, New York, Puerto Rico, Virgin Islands

Region III

Linda R. Anku, Regional Administrator, U.S. Department of Labor-OSHA, Gateway Building, suite 2100, 3535 Market Street, Philadelphia, Pennsylvania, 19104, (215) 596-1201—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Region IV

R. Davis Layne, Regional Administrator, U.S. Department of Labor-OSHA, 1375 Peachtree Street NE., suite 587, Atlanta, Georgia 30367, (404) 347-3573—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Region V

Michael G. Connors, Regional Administrator, U.S. Department of Labor-OSHA, 230 South Dearborn Street, Room 3244, Chicago, Illinois 60604, (312) 353-2220—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Region VI

Gilbert J. Saulter, Regional Administrator, U.S. Department of Labor-OSHA, 525 Griffin Square Building, Room 602, Dallas, Texas 75202, (214) 767-4731—Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region VII

John Phillips, Regional Administrator, U.S. Department of Labor-OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106, (816) 426-5861—Iowa, Kansas, Missouri, Nebraska

Region VIII

Byron R. Chadwick, Regional Administrator, U.S. Department of Labor-OSHA, Federal Building, room 1576, 1961 Stout Street, Denver, Colorado 80295, (303) 844-3061—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Region IX

Frank L. Strasheim, Regional Administrator, U.S. Department of Labor-OSHA, 71 Stevenson Street, suite 415, San Francisco, California 94105, (415) 744-7101—American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of the Pacific Islands

Region X

James W. Lake, Regional Administrator, U.S. Department of Labor-OSHA, 111 Third Street, room 715, Seattle, Washington 98101, (206) 442-5930—Alaska, Idaho, Oregon, Washington

To assist potential applicants, OSHA has assembled the following questions and answers.

Q. Can we get an extension of the deadline?

A. No. Waivers for individual applications cannot be granted, regardless of the circumstances. A closing date may be changed only under extraordianry circumstances. Any change must be announced in the **Federal Register** and must apply to all applications.

Q. Will you help us prepare our application?

A. No. We will answer specific questions about application requirements and evaluation criteria and any other subjects which will help potential applicants understand the application package.

Q. How long should an application narrative be?

A. There is no specified length. Generally 10 to 15 pages is sufficient. However, the most important thing to remember when completing the narrative is to address all items requested in the application package and to provide enough description of proposed program activities so that reviewers have a thorough understanding of the proposal.

Q. How many copies of the application should I submit?

A. Submit one original and three copies. Please do not bind them.

Q. When will I find out if I am going to be funded?

A. You can expect to receive notification about two months after the application closing date.

Q. Can I obtain copies of the reviewers' comment?

A. Copies of reviewers' comments on their applications will be mailed to unsuccessful applicants upon written request.

Q. Can we budget for the lost time wages of employees participating in the educational program?

A. No. OSHA does not fund lost time wages in its grant programs.

Q. You request a copy of a recent audit but our organization has not had an audit. What do I submit?

A. Explain in the narrative when you expect an audit to be conducted. Submit a copy of your most recent IRS tax return for a nonprofit organization instead.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 030-04951 and 030-04971; License Nos. 22-00057-06 and 22-00057-32G; EA 89-028]

Minnesota Mining and Manufacturing Co.; St. Paul, MN; Order Imposing Civil Monetary Penalty

I

Minnesota Mining and Manufacturing Company (3M or Licensee) is the holder of several byproduct material licenses issued by the Nuclear Regulatory Commission (the Commission or NRC). License No. 22-00057-06 was issued on February 17, 1964, was most recently amended on June 30, 1989, and expires on May 31, 1992. This license authorizes the Licensee to use a variety of radionuclides, including polonium-210 (Po-210), and to conduct a variety of activities with these materials including manufacturing, testing, installing, and repairing radioactive sources, and the devices in which they are used.

License No. 22-00057-32G was issued on July 12, 1965, was most recently amended on May 5, 1987, and was due to expire on July 31, 1990. The NRC staff considered 3M's June 25, 1990 letter as a timely application for renewal. However, on August 22, 1990, 3M requested termination of this license and the NRC terminated the license on August 30, 1990. The license authorized the Licensee to transfer Po-210 sources for use in static elimination devices to persons generally licensed in accordance with the provisions of 10 CFR 31.5.

These licenses were modified by immediately effective Orders issued on January 25 and February 5, 12, and 18, 1988. License No. 22-00057-32G was suspended by NRC Order on February 18, 1988 and remained suspended until its termination. License No. 22-00057-06 was also modified by an immediately effective confirmatory order issued on December 21, 1988.

II

An inspection of the Licensee's activities was conducted during the period January 25 through April 29, 1988. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated June 7, 1990. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee violated, and the amount of the civil penalties proposed for the violations. The Licensee responded to the Notice by letter dated July 5, 1990. In its response, the Licensee denied Violation I.B and, while acknowledging, or not contesting, the other violations upon which the proposed civil penalties were based, the Licensee disputed the characterization of them as willful or as evidencing careless disregard. For the violations admitted, 3M requested that the NRC reduce the severity level of the violations and reduce the civil penalty to an amount commensurate with unintentional violations. Additionally, the Licensee requested consideration of the Licensee's prior good performance and subsequent action to correct the violations as mitigating factors to reduce the proposed civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that the violations occurred as stated. However, the NRC staff has determined that the Severity Level of Violation I.B. should be changed and the civil penalty assessed should be reduced by $27,500, and that the Severity Level of Violation II.B should be changed and the civil penalty assessed should be reduced by $15,000, as described in the enclosed Appendix. Further, the NRC staff as concluded that 3M did not provide sufficient grounds to warrant mitigation of the proposed civil penalty for the other violations. Accordingly, as set forth in the Appendix to this Order, the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support has determined that civil monetary penalties in the amount of $117,500 for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $117,500 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a

hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payments has not been made by that time, the matter may be referred to the Attorney General for collections.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in Violation I.B of the Notice referenced in Section II above, and

(b) Whether, on the basis of the violations stated in Sections I and II of the Notice for which civil penalties were proposed, this Order should be sustained.

Dated at Rockville, Maryland, the 29th day of March 1991.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

Appendix; Evaluation and Conclusions With Respect to Violations Assessed a Civil Penalty in the Notice

On June 7, 1990, the NRC issued to Minnesota Mining and Manufacturing Company (3M or Licensee) a Notice of Violation of Proposed Imposition of Civil Penalty (Notice). Civil penalties in the amount of $160,000 were proposed for the violations described therein. The Licensee responded to the Notice in a letter dated July 5, 1990 (Response).

In its Response, the Licensee denied two of the violations, one of which formed the basis for the proposed civil penalties, and admitted (or did not contest) the remaining violations. The Licensee disputed NRC's characterization that any of the violations were willful. The Licensee requested that severity levels (and resulting proposed civil penalties) be reduced for some of the violations which the Licensee considered not willful. The NRC's evaluation of the Licensee's response is presented below, followed by conclusions regarding the proposed civil penalty.

1. Violation I.A

License Condition No. 15 requires, in part, that the licensee conduct its program in accordance with statements, representations, and procedures contained in the application dated September 16, 1977 and the letter dated January 16, 1979.

Section 2.5.2 of the 3M Licensing Information document contained in the September 16, 1977 application represents that, prior to placing an order, each customer's use of the static eliminators will be evaluated by the 3M Static Analyst to assure that devices will not be used in unacceptable environments. These environments are specified in section 2.5.2.

Contrary to the above, during 1987–1988, 3M Static Analysts did not, in all cases, perform evaluations to assure that static eliminators would be used in acceptable environments. 3M records showed that at least 20 static eliminators were being used in environments or under conditions designated as unacceptable in section 2.5.2. In addition, an Order Department supervisor stated, during the January 25, 1988 through April 29, 1988 inspection, that static eliminator requests were processed immediately upon receipt, regardless of whether an environmental evaluation had been performed by a Static Analyst.

Licensee's Response to I.A

The Licensee admitted this violation and acknowledged that evaluations of the applications of devices could have been performed better. The Licensee stated that the violation occurred because the Order Department was unfamiliar with the requirements of 3M's License. The Licensee stated that 3M cannot attest to widespread failures to perform evaluations since: (1) Its Static Analysts stated that failure to perform evaluations before new orders were filled was rare and (2) the use of static eliminators in unacceptable environments may have also been due to (a) Static Analysts performing the evaluations by telephone, a method now determined by 3M to be insufficient to ensure the elimination of improper applications, and (b) some devices may have been removed from originally approved placements without notifying 3M. The Licensee also described corrective actions in the event that the sale of these devices is resumed, including (1) Revamping of the evaluation procedures to make them more clear and specific, (2) extensive training of Static Analysts, (3) specific instructions to the Order Department, and (4) compliance auditing.

Finally, the Licensee denied that this violation was a willful act on the basis of the following:

a. The NRC did not identify, nor was 3M aware of, any instance where Static Analysts received an order and failed to conduct an evaluation. Failures occurred because the Order Department personnel were clearly unfamilar with the requirement and they sometimes filled orders directly from customers.

b. There is insufficient basis to show widespread occurrence of failures to evaluate environments.

c. Prospective users may have failed to identify problematic environments during telephone evaluations or may have relocated devices from the original placements without notifying 3M.

d. If failure rate data are based on interviews with customers to whom the devices were sold, there is no assurance that the NRC spoke to the appropriate employees.

e. Static Analysts responded to the NRC accurately and candidly and their statements indicated that they did not ignore the requirement to perform evaluations.

NRC's Evaluation of 3M's Response to I.A

The NRC recognizes that unfamiliarity with the requirements on the part of the 3M Order Department, as admitted by the Order Department Supervisor, could have significantly contributed to the failure to contact Static Analysts concerning receipt of applications for static eliminators. However, 3M was responsible for ensuring that the different organizational elements were faimilar with their responsibilities so that contacts and evaluations are carried out. As further explained below, the fact that the Licensee failed to ensure that the Order Department knew that it was supposed to contact the Static Analysts before the Order was processed, and the fact that the Order Department must wait for notification from the Static Analysts before processing the order, supports NRC's conclusion that the violations were evidence of 3M's careless disregard for requirements and for safety at general licensee facilities.

The NRC disagrees with the Licensee's characterization that failure to perform required evaluations was a rare occurrence. While the violation cited "at least 20" static eliminators found to be used in unacceptable environments, this was only a small sampling by the NRC staff intending to show that the failures were not isolated events. Furthermore, managers at 10 out of the 25 general licensees interviewed by the NRC inspectors did not remember any evaluation prior to placement of the static eliminators. In addition to these 10, the inspectors also interviewed the engineering maintenance manager of Ashland Chemical who stated that Ashland Chemical received the static eliminators in the mail without detailed instructions and without any contact from 3M before receipt. The purchasing agent and safety engineer for Thilmany Paper Company stated that 3M did not review applications of new units before placing them at its facility. No employee

at Scientific Distributors received a call or visit from 3M prior to receipt of the static eliminators. These statements indicate that placement of devices without performing an evaluation was not uncommon.

3M also argues that the devices might have been placed in unacceptable environments as a result of the evaluations being conducted by telephone. This can be viewed as an explanation of the occurrence, but not as an excuse for allowing it to happen. The Licensee is responsible for ensuring that the devices were properly used. If it chooses to accomplish this by telephone contact, it assumes the risks associated with this level of contact. Furthermore, even 3M now agrees that telephone evaluations are insufficient. Clearly, if adequate environmental evaluations had been performed, use of the static eliminators in these areas would not have been allowed. As for the suggestion that the general licensees failed to notify 3M of moving the devices to environments other than those originally described, there does not appear to be evidence in the record or in the statements made in interviews with general licensee employees or 3M representatives that this occurred. In the absence of such evidence, the NRC cannot rely on this explanation.

As for the Licensee's argument that there was no instance of the Static Analysts receiving an order and not evaluating it, Static Analysts received from the Order Department, on a weekly basis, a printout detailing all new static eliminator orders in their territory and copies of the executed customer lease agreements. The Analysts therefore were aware, or should have been aware, of the location of the customers who required environmental evaluations and should have ensured that these evaluations were performed. They admitted during the inspection that evaluations were not always done prior to installation of static eliminators due to logistical concerns, such as the sale of a device to a company at the far end of an Analyst's territory. Furthermore, the lease agreements have a statement above the signature blank stating "I have evaluated this application and have found the environmental conditions acceptable for our nuclear static elimination equipment. The customer has been informed of his obligations under NRC regulations." By allowing its employees to sign this attestment without knowledge that the evaluation had been performed, 3M showed careless disregard for the requirements and the safety at general licensee facilities. Failure by the Static Analysts to ensure that 3M employees signing such attestments understand their responsibilities represents evidence of careless disregard on the part of the Static Analysts.

With respect to the Licensee's claim that the NRC may not have spoken to the appropriate customer personnel, NRC interviews of 3M customers included individuals responsible for static eliminator ordering and care at customer facilities. This included individuals such as the safety engineer at Thilmany Paper Company, the manager of Scientific Distributors, and the engineering maintenance manager at Ashland Chemical Company. The individuals interviewed by the NRC inspectors stated that any information from 3M regarding static elimination devices would have been brought to their attention. Thus, the information provided by these individuals provides a sound basis to conclude that 3M did not conduct the required evaluations. Therefore, based upon these interviews and the failure of 3M to provide evidence showing the contrary, 3M's claim is not well founded.

NRC's June 7, 1990 letter to 3M identified the violation as willful because the operational environment described above persisted and represented a long period of poor performance in the program and a serious breakdown in the conduct and oversight of activities by 3M management, showing careless disregard for NRC regulations and the safety of the public. In numerous instances, 3M repeatedly distributed static eliminators to customers who had returned leaking devices (as detailed in the inspection report) without conducting the required evaluations to determine whether environmental factors caused, or contributed to, leakage. The fact that some of the customers used the static eliminators in food and beverage industries makes the inspection findings more significant. 3M failed to control licensed activities involving the distribution of licensed material to general licensees by not ensuring that the environments in which these devices were placed would not cause the potential for exposure to the public, especially in the food, beverage, pharmaceutical, and cosmetic industries. Accordingly, the NRC concludes that 3M has demonstrated an indifference to the safe use of licensed materials amounting to a willful violation based on careless disregard.

2. Violation I.B

License Condition No. 15 requires, in part, that the licensee conduct its program in accordance with statements, representations, and procedures contained in the application dated September 16, 1977 and the letter dated January 16, 1979.

Items No. 2 and 3 of the January 16, 1979 letter represent that all returned static eliminators will be leak tested to determine whether they have removable surface activity in excess of 0.005 microcurie and 3M will record the results of the leak tests.

Contrary to the above, leak tests of returned static eliminators conducted from January 1979 until January 1988 were not adequate in that the initial leak test sample obtained was not quantified to determine the actual leak test value. As a result, the licensee could not determine, in all cases, whether returned static eliminators had removable surface contamination in excess of 0.005 microcurie and, therefore, whether they were failing in service.

Licensee's Response to I.B

The Licensee denied that the conduct described in the Notice is a violation. The Licensee contended that the initial wipe test was a screening process, was not done to decontaminate the devices, and did not invalidate subsequent recorded tests. The Licensee also contended that the screening process is not a violation of any specific license requirement, since the information submitted to the NRC for a license did not state that a screening test could not be used. The Licensee stated that the process was desirable due to large numbers of returned devices and the need to move uncontaminated devices to storage areas for disposal while promptly identifying for Quality Control those devices that needed evaluation. The Licensee acknowledged the NRC's concern that the screening test might have affected subsequent tests; consequently the process was halted after the NRC inspection.

The Licensee also disagreed with the characterization of this violation as willful because:

a. 3M personnel did not perceive the initial wipe test as a leak test which did not meet requirements; and

b. The test was not undertaken to bias subsequent tests.

The Licensee also notes that the Notice did not explain why the violation was characterized as willful.

NRC Evaluation of 3M's Response to I.B

The NRC agrees with 3M's argument that use of the screening test, in itself, is not a violation. However, that is not the issue. The issue is whether an adequate leak test was performed on 100% of the returned static eliminators as required

by 3M License No. 22–00057–32G to determine surface activity in excess of 0.005 microcurie.[1]

The NRC's position is that the screening test was not quantified and, by itself, could not have detected eliminators with surface activity in excess of 0.005 microcurie. Therefore, devices should not have been excluded from the leak testing procedure on the basis of an unquantified screening test. Furthermore, the screening test would influence any later quantified test result by removing some of the surface activity and preventing later tests from accurately determining surface activity of the returned device. Furthermore, the 3M staff who were qualified to determine whether the test was adequate, and who were responsible for oversight of the program (members of health physics or quality control staffs including the Corporate Radiation Safety Officer (RSO)), did not audit the screening test over a 9-year period to determined if it was adequate.

The NRC agrees with 3M's statements that the screening process was not done with the intent to decontaminate the devices. The NRC also agrees that the individuals performing the screening tests did not perceive the test as not meeting the requirements. The NRC does not consider this to be a willful violation. This violation was combined with Violation I.A due to the similarity of the violations. The NRC staff intended this aggregation of violations to clearly identify root causes of violations. However, Violation I.A is the only one considered to be willful, as stated in the NRC letter of June 7, 1990, enclosing the Notice.

Although the NRC only intended to attribute willfulness to Violation I.A, the NRC always intended to combine Violations I.A and I.B in the aggregate as a Severity Level II problem as permitted under the Enforcement Policy. In view of the willfulness associated with one of the violations and the pervasiveness associated with both of the violations, the NRC also intended to assign an $80,000 proposed penalty to this problem. However, equal distribution of the proposed civil penalty between the two violations was not intended. A larger civil penalty amount should have been assigned to Violation I.A, but increasing the penalty for Violation I.A is not appropriate at this point. The NRC has concluded that the assignment of a $40,000 civil penalty to Violation I.B is inappropriate. Accordingly, the civil penalty being imposed for this Violation is being reduced to $12,500, the base civil penalty for a Severity Level III violation under the Enforcement Policy.

3. Violation II.A

License Condition No. 15 requires, in part, that the licensee conduct its program in accordance with statements, representations, and procedures contained in the application dated September 16, 1977 and the letter dated January 16, 1979.

Section 2.8.3 of the 3M Licensing Information document contained in the September 16, 1977 application describes the licensee's responsibilities for handling returned static eliminators classified as damaged. Two representations related to customer follow-up are set forth below:

Section 2.8.3.2 of the 3M Licensing Information document, contained in the September 16, 1977 application, represents that 3M will notify customers of any intact returned device classified as damaged as a result of a smear test indicating removable surface activity in excess of 0.005 microcurie (uCi).

Section 2.8.3.3 of the 3M Licensing Information document, contained in the September 16, 1977 application and revised in the January 16, 1979 letter, represents that the 3M Regulatory Affairs Manager (RAM) will follow up reports of returned damaged static eliminators which show more than 0.005 uCi of removable surface activity with the customer. The Static Analyst could assist the RAM as appropriate. The follow-up includes customer instruction in proper static eliminator use and an evaluation of customer use.

a. Contrary to section 2.8.3.2, as discussed in section 8.d.(3) of Inspection Reports 030–04971/88001 and 030–04951/88001, 3M did not notify its customers, in at least six cases during the period February to October 1987, where returned devices were classified as intact and damaged, and the smear test indicated removable surface activity of Po–210 in excess of 0.005 uCi.

b. Contrary to section 2.8.3.3, as discussed in section 8.d.(3) of Inspection Reports 030–04971/88001 and 030–04951/88001, the 3M Regulatory Affairs Manager did not, in all cases, follow up with the customer. 3M records showed that 36 notification letters were sent to Static Analysts in 1987, regarding 97 intact but damaged static eliminators. However, these letters were not sent to the general licensees nor followed up by the RAM or 3M Static Analyst, as required.

Licensee's Response to II.A

The Licensee admitted this violation, but stated that the cause of the failures was ambiguous requirements. The Licensee claimed that section 2.8.3.1 allowed the RAM to exercise judgment as to when to notify customers pursuant to section 2.8.3.2. The Licensee stated in its Response:

> Violation II.A. states that section 2.8.3.2 represented that 3M "will notify customers of any intact returned device classified as damaged * * * [and contaminated] in excess of 0.005 microcurie." Section 2.8.3.2, on the other hand, states "appropriate" discussions and notifications of the customer would occur, and that the actions would be carried out as described in section 2.8.3.1. Section 2.8.3.1 of the Licensing Information document indicated that the Regulatory Affairs Manager would be required to take action if in his "opinion" there were a "significant probability of loss of Po-210 in the customer's plant," and that the actions would include visits or notifications "as is required by the situation."

3M also cited poor communication between one of the RAMs and the Field Service Engineer and a lack of quality assurance as causative factors. Further, 3M also argued that the reasoning used by the NRC in its letter transmitting the Notice to 3M to characterize the violation as willful, and thus raise it to a Severity Level II, was faulty. The Licensee read the NRC letter as concluding that a Severity Level II condition existed because of inaccurate information provided to the NRC. 3M claimed that this does not apply to Item II.A., but only to Item II.B. The Licensee concluded that this violation was not willful in nature but was caused by ambiguity in procedures and inadequate internal controls.

NRC's Evaluation of 3M's Response to II.A

The Licensee argued that sections 2.8.3.1 and 2.8.3.2. are ambiguous and, if taken together, allowed the RAM to exercise judgment in deciding when to notify customers. Section 2.8.3.1 does not address customer notification; in fact, it refers to "visits to the customer's plant or notification *of regulatory agencies* as is required by the situation" [emphasis added] section 2.8.3.2, which does address customer notification, requires that 3M "provide feedback to the customer" for devices smear tested in excess of 0.005 microcurie and that, for devices testing in excess of 0.1 microcurie, a required evaluation "would include appropriate discussions and notification of the customer, evaluation of the situation and notification of regulatory agencies as

[1] After lengthy correspondence regarding whether 100% leak testing should be conducted, 3M finally committed in a January 16, 1979, letter to NRC to do so. This letter was later incorporated into the License by reference. Therefore, any subsequent failure of 3M to effectively carry out this 100% testing would be a violation.

required by law." Therefore, the NRC cannot agree with 3M's conclusion that these requirements are ambiguous.

With regard to the NRC's reasons for characterizing these violations as willful, the NRC letter states "* * * [3M] demonstrated at least careless disregard in not providing adequate information and in providing inaccurate information to the NRC's [emphasis added]. The first clause of this statement addressed Violations II.A.1 and II.A.2 and should have been more accurately written to indicate that 3M had failed, in careless disregard for the requirements, to provide adequate information to general licensees.[2] The RAMS were aware of the requirement to notifiy customers of leaking devices but failed to tell the customers that they had returned leaking devices, putting those customers in violation of their general licenses. Statements made by the maintenance supervisor at Anheuser-Busch indicated that, when 3M representatives noted unacceptable conditions at its facility, 3M personnel did not inform Anheuser-Busch management, follow-up the finding, or write a report. Although 3M knew that devices had leaked at Ashland Chemical, it did not report the reading to the general licensee and told Ashland Chemical that there was no problem with its application. Discovery of leaking devices at Reed Industries did not result in removal or recommendations for alternative applications. 3M found leaking devices at Avon Products, but sent Avon no reports and played down the significance of the finding while at the Avon facility. Similarly, 3M failed to inform Thilmany Paper Company of the significance of the leaking devices found in its facility.

The Licensee's claim that poor communications and poor followup procedures by the RAMs contributed to the violation of section 2.8.3.3 is not defense. The RAM occasionally requested followup actions on reports of returned damaged leaking static eliminators by sending letters to the Static Analyst responsible for that customer. Further, the RAM then assumed that his field service engineer would assure that Static Analysts completed customer followup activities. However, those who were responsible for compliance with these requirements, specifically the RAMs, were responsible to ensure that communications were adequate, that auditing was conducted as necessary, and that follow-ups were performed. Failure to take these actions is the very evidence itself of the Licensee's disregard for these requirements. The RAM either disregarded this responsibility or made only minimal efforts to ensure subordinates fulfilled the requirements, resulting in potentially unsafe conditions going uncorrected. This approach toward responding to identified events of leaking devices transcends miscommunication and procedural inadequacy.

The NRC concludes that the extent of indifference demonstrated by 3M in not informing its customers of leaking devices so that corrective actions could be taken presented the potential for unnecessary contamination of the public and represented careless disregard of the requirements.

4. Violation II.B

Licensee Condition No. 15 requires, in part, that the licensee conduct its program in accordance with statements, representatives, and procedures contained in the application dated September 16, 1997 and the letter dated January 16, 1979.

Section 2.8.4 of the 3M Licensing Information document, contained in the September 16, 1977 application, and revised in the January 16, 1979 letter, represents that the licensee will submit a report to the NRC, on an annual basis, covering certain aspects of the static eliminator program from July 1 of the previous year through June 30 of the year in which the report is made. One of the items to be included in the annual report is a summary of the results of evaluation and testing on returned devices classified as damaged by 3M.

a. Contrary to the above, in its annual dated July 9, 1986, 3M failed to provide the NRC a complete and accurate summary of the results of evaluation and testing on returned static eliminators classified by 3M as damaged. 3M's evaluation and testing program identified and described those damaged static eliminators that showed greater than 0.005 microcurie of removable surface activity. 3M's annual report to the NRC indicated 30 damaged static eliminators had greater than 0.005 mocrocurie of removable surface activity. However, 3M's records showed that at least 99 damaged static eliminators met that criterion and should have been reported to the NRC.

b. Contrary to the above, in its annual report dated July 13, 1987, 3M failed to provide the NRC a complete and accurate summary of the results of evaluation and testing on returned static eliminators classified by 3M's as damaged. 3M's evaluation and testing program identified and described those damaged static eliminators that showed greater than 0.005 microcurie of removable surface activity. 3M's 1987 annual report to the NRC indicated five damaged static eliminators had greater than 0.005 microcurie of removable surface activity. However, 3M's records showed that at least 184 damaged static eliminators met that criterion and should have been reported to the NRC.

Licensee's Response to II.B

The Licensee did not contest the violation but failed to specifically admit it.

3M argued that:

a. The violation was caused by ambiguity in requirements which did not define exactly what was to be reported and allowed the RAM discretion as to what should be reported;

b. The NRC inaccurately characterized the actions of 3M RAMs Schweiss and Kunz in the Demand for Information and thus erroneously concluded the reporting errors were willful;

c. NRC accepted the reports for many years which clearly did not contain information for which 3M is now cited for omitting;

d. 3M had no motive to falsify reports since the device failure rate was less than 1%;

e. Mr. Peters (a 3M RAM) sought clarification from NRC on reporting requirements, which contradicts any supposition that any attempt to conceal this data had been made;

f. It did not report (monthly) all returned devices classified as undamaged and leaking; and

g. The NRC emphasis was on undamaged leakers and thus, 3M implies, the safety significance of accurate data on damaged devices was minimal.

3M also stated that Mr. Schweiss, in the 1986 and 1987 annual reports, reported the information that he thought was required (and desired) by the NRC. 3M argued that the failure to report the information required by the NRC was not willful and referred to interviews by the NRC Office of Investigations (OI) to support this view. 3M also stated that there is no basis for the assertion that the return program was designed to classify every leaking device as damaged.

[2] The second clause of the sentence quoted from the NRC letter transmitting the Notice referred to information provided to the NRC, was related to Violation II.B, and is discussed in the next section of this appendix.

NRC's Evaluation of 3M's Response to II.B

The NRC does not agree that the underreporting of damaged static eliminators was due to an ambiguity in the reporting requirements. The Licensing Information Document (LID) submitted September 16, 1977 reflected the agreement reached between 3M representatives and NRC staff after months of discussions and contains a comprehensive reporting requirement. A variety of information is specified to be reported, albeit in summary form. From the number of items specified to be reported and their nature, e.g., a summary of the results of evaluations and testing on damaged units, it is clear that the total number of damaged units returned to 3M during the year needs to be reported.

With respect to the actions of Mr. Schweiss, 3M stated that the transcripts of OI's interview with Mr. Schweiss do not show that he admitted perceiving a discrepancy between what was being reported and what he thought may have been required by the license. The NRC agrees that Mr. Schweiss testified that he was not aware of a discrepancy. However, he admitted being confused about whether 3M or the general licensee had the responsibility for reporting leaking devices to the NRC in spite of the fact that 3M, in a July 31, 1978 letter to the NRC, amended sections 2.8.2.2 and 2.8.3.2 of the Licensing Information Document (LID) to require reporting by 3M of leaking devices to appropriate regulatory agencies. Mr. Schweiss also admitted not discussing reporting requirements with his predecessor or asking him to review his (Schweiss') reports prior to submitting them to the NRC. Mr. Schweiss also admitted having only a "very, very bried discussion" with Mr. Peters when the latter was taking over the responsibilities of the RAM from Mr. Schweiss.

In regard to Mr. Kunz not reading the license or seeking adequate assistance to understand its contents, he admitted merely copying the format of earlier reports of Mr. Lahr, stating that he "just followed the format Tom [Lahr] had established." When asked if he compared what was being reported with the actual requirements in the license, he answered, "No."

3M employees used two completely different sets of information in reporting device failures to the NRC. The first set was returned device testing data identifying the static eliminators which were found to be damaged and leaking (184 in the 1987 reporting period). The second data set were those damaged, leaking devices which the RAM labeled "incidents" (5 in the 1987 reporting period). Clearly, the total number of devices reported to the NRC as damaged and leaking is significantly lower than that which 3M had initially identified in the return program. The RAMs had access to both sets of data but chose not to inform the NRC of the more significant data. Other 3M management, including the Corporate Radiation Safety Officer (RSO) and health physics staff, failed to aduit the reporting process over a number of years. The general atmosphere of disinterest in reporting requirements or in gaining a clear understanding of the responsibilities of the RAM represents careless indifference to NRC reporting requirements amounting to careless disregard and is, therefore, a willful violation. If personnel at 3M perceived any ambiguities in 3M's license, they should have recognized this early on and amendments should have been sought to clarify the subject area.

It is true that the NRC accepted 3M's annual reports for many years and did not question 3M regarding the reports' contents. While, from a studied reading of these reports, one could conclude that the report did not contain the information regarding damaged devices required to be incuded, the NRC does not approach required reports in this fashion. It is presumed that the report contains the required information. In this case, 3M's annual reports did discuss damaged devices and presented a "Summary of Incidents/Damaged Units" indicating the number of devices involved. A reasonable reading of this information would lead the reader to conclude that this included the required summary of all damaged devices returned in the specified year. This was not the case. 3M presented only selected data. The NRC should be able to presume that required reports are complete and accurate in all material respects, as is required by NRC regulations.

The NRC concludes that the Licensee's argument that there was not motive to falsify reports (since even the failure rate adjusted with the correct statistics was less than 1%) is irrelevant to this case. If there had been such a motive, and had it been tied to an attempt to conceal what were perceived to be excessive numbers of leaking devices, the NRC would have considered this violation to be deliberate rather than one reflecting carelessness or indifference to requirements.

The NRC agrees with 3M's statement that Mr. Peters sought NRC's clarification of reporting requirements. However, this did not occur until later 1987 and does not, therefore, alter the conclusion that the RAMs had acted in careless disregard for the reporting requirements for a number of years. The action taken by Mr. Peters is a credit to him. However, it occurred only after incomplete reports had been submitted to the NRC for many years. If Mr. Peters had a sufficient concern to request clarification from the NRC, why did he not raise the concerns earlier and why didn't the other RAMs have similar concerns?

With respect to 3M's argument that monthly data on undamaged devices reduced the significance of the annual reports, it is true that monthly reports of undamaged leakers were submitted to the NRC. However, these reports were inaccurate. The number of undamaged devices was artificially very small due to two facts. First, a tendency to categorize even merely dirty devices as damaged resulted in an abornmally high number of devices being classified as damaged, lowering the number of those reported monthly as undamaged. This occurred in spite of the criteria established in 3M's LID, section 2.8.3, which defines "damage" as "* * * that type of damage which is possible or likely that quantities of Po-210 could have leaked from or been removed from the soruce." Interviews of 3M employees conducted by OI indicate that the fact that a device was dirty could be enough to classify it as damaged. Secondly, the screening leak test performed on returned devices (see Violation I.B) probably caused returns to be classified as non-leakers when, in fact, they were leaking. Therefore, the monthly reports of undamaged leakers reflected an artificially low number of undamaged devices, did not provide the NRC with the true magnitude of the problems associated with the use of static eliminators, and did not permit the NRC to adequately assess the use of these devices.

With respect to the safety significance of data on damaged devices, this data would have had safety significance for the NRC particularly if the incidents associated with damaged devices and involving the food, beverage, pharmaceutical, and cosmetics (FBPC) industries had been clearly presented. The four Orders that were issued to 3M when the NRC ultimately became aware of leaking devices in the FBPC industries indicates the significance this information would have had.

However, the NRC staff has reconsidered the safety significance of the actual numbers of leaking static

eliminators and concluded that, had it known the correct number of devices damaged in a year at the time the annual reports were submitted, it would not necessarily have taken action. Consequently, the staff has concluded that the violations associated with the inaccurate annual reporting of damaged devices would more properly be categorized at Severity Level IV if willfulness is not considered. However, the NRC remains concerned about the practices that resulted in omitting the correct number of damaged devices from the annual report and the fact that these omissions evidenced a careless disregard with respect to the accuracy of information submitted to the NRC. Furthermore, had all the damaged devices been included in the annual report, and had the incidents leading to the damage been accurately characterized, e.g., that some of these damaged devices were in the FBPC industries, the NRC would have been alerted to a potential problem and would likely have chosen to take some action. Based on the conclusion that the underreporting appeared to have been caused by a careless disregard with respect to the accuracy of information forwarded to the NRC, the staff is raising the Severity Level of this violation to a Severity Level III.

With this reassignment of Severity Level, equal distribution of the proposal $80,000 civil penalty to the four violations that make up this problem is not appropriate. Violation II.A will be assessed a $40,000 civil penalty, representing one-half of the amount for a Severity Level II violation ($80,000) as described in the Notice of Violation and Proposed Imposition of Civil Penalty. Using the same $100,000 base amount, applying the 50 percent factor for Severity Level III as described in Table 1B, and assessing half of that amount as appropriate for one-half of a cumulative penalty, Violation II.B is assigned a $25,000 civil penalty.

In summary, the underlying significance of Violation II.B has been reconsidered by the NRC and the NRC now concludes that the reporting failure in itself would warrant classification as a Severity Level IV violation rather than a Severity Level III violation as originally proposed. However, the NRC continues to believe that careless disregard is associated with these reporting violations and continues to believe that an increase in the Severity Level is warranted on this basis. Consequently, Violation II.B will be imposed at a Severity Level III. Violation II.B was originally proposed at a Severity Level II. The civil penalty imposed for this violation will be reduced from $40,000 to $25,000.

3M's Arguments for Mitigation of the Proposed Civil Penalty

The Licensee presented the following reasons as a basis why the proposed civil penalty should be mitigated.

a. 3M maintained that its record of regulatory compliance has been very good since becoming a licensee in the 1950s.

b. 3M contended that there was a lack of prior notice of the violations. 3M staff believed they were complying with requirements and the license was ambiguous.

c. 3M claimed that corrective actions were taken which went above and beyond NRC Orders. For example, 3M contacted, on its own initiative, customers in the food, beverage and cosmetic industries to withdraw static eliminators. 3M also undertook a recall of all static eliminators in a conscientious manner, while providing the NRC with customer lists and status reports. 3M initiated, at its own expense, surveys of customers who had returned leaking devices and also performed decontamination when warranted.

NRC's Evaluation of 3M's Request for Mitigation and Conclusion

The NRC agrees that 3M's past performance in managing licensed activities, other than the static eliminator program, had been good prior to 1988. However, 3M's management of the static eliminator program to determine compliance with requirements was not previously reviewed in detail. Based upon the results of the January–April 1988 in-depth inspection of these activities, the NRC determined that any mitigation for good past performance was inappropriate. The inspection identified numerous examples of poor performance in this area and a serious breakdown in 3M's management controls to ensure compliance with license requirements. Based upon the results of this inspection, the NRC found that past performance in the static eliminator program was poor. Therefore, due the significance of these multiple violations and the evidence of careless disregard associated with many of the violations, it is not appropriate to mitigate the penalty for past performance.

The absence of prior of violations of requirements is not a basis for mitigation in the NRC's enforcement policy. The NRC did not increase the civil penalty based upon prior notice. As stated in the Notice of Violation, the NRC based the civil penalty on ineffective management controls, poor performance in the static eliminator program and willful violations (careless disregard for NRC requirements).

The NRC recognizes that 3M took extensive corrective actions as a result of the identification of static eliminators releasing polonium-210 to the environments in which they were placed. However, most of these actions were to remove devices from use and resolve the safety issue, and most were required by NRC's Orders and so were expected corrective actions. The NRC also recognized that 3M examined its program to determine inadequacies, identified changes, and is working on the implementation of some of those changes. Such corrective actions, given the nature of the identified violations, were also expected. In summary, since the corrective actions initiated were necessary to abate the violations, and since these actions merely represented a return to compliance, mitigation for this factor is not appropriate. The NRC took 3M's corrective actions into account in assessing the civil penalty and finds no basis to reduce the civil penalty based upon information provided in 3M's response.

In conclusion, the NRC finds that 3M did not provide sufficient information to justify withdrawal of any of the violations. However, as described above, the Severity Levels of Violations I.B and II.B were lowered and the amount of the civil penalty for these violations has been reduced. Therefore, the NRC has concluded that a civil penalty of $117,500 should be imposed.

Enclosure B—Evaluations and Conclusions With Respect to Violations Not Assessed a Civil Penalty in the Notice

Violation III

10 CFR 32.1(b) requires that a part 32 license holder adhere to the provisions of part 30.

10 CFR 30.3 prohibits any person from manufacturing, producing, transferring, receiving, acquiring, owning, possessing, or using byproduct material except as authorized in a specific or general license issued pursuant to the regulations in 10 CFR part 30.

Contrary to the above, although the licensee was authorized to distribute specific types of static eliminators, the licensee made material design changes in three models of static eliminator devices containing byproduct material during the period 1983 to 1985 and, without NRC's prior evaluation and approval, incorporated those changes into static eliminators which were

distributed to general licensees during the period 1983 through 1988. The design change involved the use of a different epoxy used to secure the Po-210 to the static eliminators. The distribution of the three modified models was not authorized pursuant to a specific or general license.

Licensee's Response to III

3M denied the violation, stating that the precise brand of epoxy was not specified in the license and the changes were not technically significant. 3M stated that the changes received full internal review and testing prior to commercial implementation. 3M also commented to the importance of limitations on NRC requirements to require NRC approval prior to minor device modifications.

NRC's Evaluation of 3M's Response to III

The license issued to 3M authorized distribution of 3M static eliminators based on a general description of the epoxy and prototype testing. The epoxy is a significant part of the 3M static eliminator safety system. If it fails, and it did to a certain degree, public health and safety may be affected. 3M agrees that it changed the epoxy and considered the changes significant enough to perform prototype testing to verify that safety was not compromised. The NRC also considers the changes to be significant enough to require prototype testing. However, since the NRC review ofthe license did not consider specific characteristics of the epoxy, changes to that epoxy could be allowed by the license without subsequent NRC review. Therefore, this violation is being withdrawn.

Enclosure C—Analysis and Conclusions With Respect to the Demand for Information

3M's Response to the NRC Demand for Information

The Demand for Information (DFI) questioned whether there is reasonable assurance that Messrs. Lahr, Kunz, Schweiss or Peters can be relied upon to comply with NRC requirements in the performance or supervision of licensed activities or that 3M will comply with NRC requirements while these individuals are conducting, supervising, or in any way involved in licensed activities.

The Licensee responded by stating that Mr. Kunz is now retired and that Mr. Lahr has not been involved with NRC-licensed activities since 1984. Messrs. Schweiss and Peters are currently active with respect to the radioactive materials program.

3M takes exception to the NRC conclusion that it is likely that Messrs. Lahr and Kunz willfully submitted inaccurate information without specific evidence proving such. The Licensee reiterated Mr. Lahr's statements to OI in which he stated that he believes that he reported all leaking devices to the NRC.

3M claims that the DFI is inaccurate with respect to Mr. Kunz. The DFI states that Mr. Kunz admitted never having read the license, thus failing to become aware of the reporting requirements and apparently continuing Mr. Lahr's practices. 3M points out that Mr. Kunz did not admit never having read the license. He told OI that, when he became the RAM, he did not go back through every detail, but that he had read the license "in great detail" when it was issued. Also, Mr. Kunz may not have continued Mr. Lahr's exact reporting practices.

The Response reiterated that Mr. Schweiss reported the information which he thought the NRC wanted and that the collection and retention of the returned device data is indicative of his good faith. 3M also took exception to a statement in the DFI which asserts that Mr. Schweiss stated that he perceived a discrepancy in the data reported to the NRC and what was required to be reported by the license. His statements to OI indicated that he felt the report was complete as the NRC required and he did not see an inconsistency at the time of reporting.

The Licensee points out that Mr. Peters perceived ambiguity in the reporting requirements and decided to seek clarification of 3M's reporting obligation. He consulted with the Isotope Committee who, in turn, contacted the NRC for its view on the matter. The issue was to be pursued in a future meeting, but was overtaken by the events of early 1988. This attempt at clarification showed Mr. Peters' desire to provide whatever information the NRC wanted and is inconsistent with a finding of willful non-reporting.

3M believes that the annual reports submitted by the RAMs represented a sincere interpretation of the reporting requirements, which 3M thinks are ambiguous, and did not indicate either an intent to deceive or careless disregard for accuracy. 3M also believes that the individuals' appreciation for the importance of regulatory compliance has been greatly reinforced by this situation.

3M states that 3M management involved with nuclear products is now sensitive to the need for strict compliance with the spirit as well as the letter of the law. This sensitivity, coupled with increased quality assurance and audit functions, provides reasonable assurance that Messrs. Schweiss, Peters and Lahr (if he is involved with the program in the future) will conduct their activities in accordance with NRC requirements.

Management has spoken to Messrs. Schweiss and Peters to re-emphasize the importance and necessity of strict adherence to regulatory requirements. Both individuals fully appreciate their responsibilities. Therefore, 3M submits that no action is required by the NRC to ensure compliance with NRC requirements.

NRC's Evaluation of 3M's Response to the DFI

Regarding 3M's exception to the inclusion of Messrs. Lahr and Kunz in the DFI, the NRC still contends that these individuals likely submitted inaccurate information as did their successors. 3M provided no information to support any other conclusion. A sampling of records during the inspection indicated that environments were not significantly different prior to 1986 as many devices were used in the same applications. Annual reports did not significantly change in format over those years and the relative failure rate did not change significantly.

The OI report indicates that Mr. Kunz states he had never read the static eliminator distribution license with regard to required reporting. In his July 26, 1988 transcript, Mr. Kunz stated that, when he was RAM, he did not read the document, although he had read it some five years earlier when he would only have been interested in issues of sales and marketing. He continued to say that, when the reporting responsibility was handed over to him, he just followed the format that Mr. Lahr had previously established. He stated that he just changed the numbers in the previous report to update it. This information suggests that Mr. Kunz may not have read or comprehended the reporting requirements. Further, he chose not to seek clarification of his responsibilities from 3M sources or from the NRC.

In the OI transcripts, Mr. Schweiss admits to having read the distribution license which explicitly requires reporting of leaking devices. He also stated that he thought the reporting method was somewhat illogical but chose not to contact the NRC, nor did he seek other 3M sources of information as to whether 3M should be reporting

additional leaking devices to the NRC.

Apparently, neither Messrs. Schweiss nor Peters attempted to conceal information from the NRC during the course of this inspection/investigation. Interviews with these individuals since early 1988 have shown that they are now fully aware of licensing requirements in their areas of responsibility. NRC inspections subsequent to that performed during January—April 1988 have confirmed the increased level of quality assurance and audit control for licensed programs. Based on these findings, it appears that 3M management is aware of 3M's regulatory responsibilities and has increased regulatory sensitivity for the individuals named in the DFI as well as other people employed in nuclear product areas.

In addition, 3M has strengthened oversight and production personnel are no longer auditing themselves. NRC accepts 3M's response to the DFI and is satisfied that 3M internal controls are capable of precluding a similar failure from occurring in the future. The NRC proposes no further action in this matter.

[FR Doc. 91-8045 Filed 4-4-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Law Enforcement and Protective Occupations

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of opportunity to file comments.

SUMMARY: The Office of Personnel Management (OPM) invites all Federal agencies, labor unions and other employee organizations, and interested persons to submit written comments and recommendations on the procedures to be employed and the issues to be addressed by OPM in considering the establishment of a special position classification and pay system (or systems) for law enforcement and protective occupations in the Federal Government.

DATES: Comments and recommendations in response to this notice will be considered if received by April 26, 1991. Requests for extensions of time will not be granted, absent extraordinary circumstances.

ADDRESSES: Mail or deliver comments or recommendations to Barbara L. Fiss, Assistant Director for Pay and Performance Management Programs, U.S. Office of Personnel Management, 1900 E Street, NW., room 7H30, Washington, DC 20415.

SUPPLEMENTARY INFORMATION: Title IV of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Public Law 101-509, November 5, 1990, provides in section 412 that no later than January 1, 1993, OPM, in consultation with law enforcement agencies and law enforcement employee groups, shall submit to Congress, in writing, a plan to establish a separate pay and classification system for law enforcement officers and specifications for legislation to implement such a plan. Concurrently, under 5 U.S.C. 5392, as amended by FEPCA, OPM is considering whether to recommend to the President's Pay Agent the establishment of a special occupational pay system for protective occupations (e.g., Federal firefighters, police, and guards).

OPM is currently preparing plans for conducting these studies and invites comments and recommendations addressing any matters related to procedures for carrying out the study, the occupational coverage, or any other pertinent issues. OPM is particularly interested in receiving any comments on the following questions:

- What do you consider the most serious classification and pay problems which must be addressed in these studies? Please be as specific as possible.
- Which occupations in the Federal Government should be grouped within the definitions of "law enforcement" or "protective" occupational series for purposes of these studies?
- Is the current classification system adequate for evaluating law enforcement and protective occupations?
- To what extent, if at all, are law enforcement classification and pay systems used in local and State governments transferable to the Federal Government?
- What procedures or mechanisms should OPM employ to promote effective consultation with Federal agencies, unions, and other employee organizations in conducting these studies?

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-7978 Filed 4-4-91; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Implementation of the Accelerated Tariff Elimination Provision of the United States—Canada Free-Trade Agreement

AGENCY: Office of the U.S. Trade Representative.

ACTION: Amendment to the notice of articles under consideration for accelerated tariff elimination within the context of the U.S.-Canada Free-Trade Agreement.

SUMMARY: This is an amendment to the supplement to Annexes I and II in the **Federal Register** notice of October 5, 1990. Section 201(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 ("FTA Implementation Act") grants the President, subject to consultation and layover requirements of section 103 of that Act, the authority to proclaim any accelerated schedule for duty elimination that may be agreed to by the United States and Canada under FTA article 401(5). This notice is intended to inform the public of a change in the supplement to Annexes I and II in the **Federal Register** of October 5, 1990, as a result of further clarification of product coverage provided by the industries concerned.

ADDITIONAL INFORMATION: Further information on this subject may be found in the **Federal Register** notice of March 12, 1991, Volume 56, Number 48, at pages 10454 through 10455; December 17, 1990, Volume 55, Number 242, at pages 51780 through 51781; October 5, 1990, Volume 55, Number 194, at pages 40964 through 40973; and February 8, 1990, Volume 55, Number 27, at pages 4501 through 4503. Inquiries regarding this notice or other aspects of the implementation of accelerated tariff elimination under the FTA should be directed to Laurel Prucha, Director of Tariff Issues, Office of North American Affairs, Office of the U.S. Trade Representative, room 501, 600 17th Street, NW., Washington, DC 20506, telephone (202) 395-3412.

Advice of the United States International Trade Commission

The United States International Trade Commission has provided its judgment as to the probable economic effect of accelerated elimination of U.S. duties on industries producing products like or directly competitive with the products specified in this notice.

Advice of the Private Sector Advisory Committees

Pursuant to section 103(a)(1) of the FTA Implementation Act, private sector advisory committees have provided their advice on the products specified in this notice.

Item Considered in Negotiations

The **Federal Register** notice of October 5, 1990, listed in Annexes I and II to that notice the subheadings of the Harmonized Tariff Schedule of the United States (HTS) that might be subject to negotiations with Canada for accelerated duty elimination. For subheadings listed in Annexes I and II with an asterisk, only certain specified products covered by the subheadings would be considered for accelerated tariff elimination. A list of the specific products which would be considered was available upon request to the Office of the U.S. Trade Representative.

The following articles provided for in the listed subheading of the Harmonized Tariff Schedule of the United States (HTS) and the Customs Tariff of Canada are subject to negotiations with Canada on accelerated duty elimination:

Article	U.S. HTS Subheading	Canadian Tariff Subheading
Tennis shoes, basketball shoes, training shoes, gym shoes, and the like, all with leather uppers.	6403.99(pt).....	6403.99.00(pt)

Charles E. Roh, Jr.,

Assistant U.S. Trade Representative of North American Affairs.

[FR Doc. 91–8082 Filed 4–4–91; 8:45 am]

BILLING CODE 3190–01–M

THE PRESIDENT'S EDUCATION POLICY ADVISORY COMMITTEE

Meeting

AGENCY: The President's Education Policy Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: The President's Education Policy Advisory Committee was formed under Executive Order 12687 and signed by the President of the United States on August 15, 1989.

TENTATIVE AGENDA ITEMS: The tentative agenda for the meeting includes efforts to achieve the national education goals, adult literacy and future education-related actions and activities.

DATES: The seventh meeting is scheduled for Tuesday, April 16, 1991, from 1:30 to 4 p.m.

ADDRESSES: The meeting will be held at the Old Executive Office Building, room 180, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rae Nelson at the White House Office of Policy Development to indicate attendance or for further information. The phone number is (202) 456–6515. For clearance purposes, please notify Rae Nelson no less than twenty-four hours before the meeting. Please provide over the phone, your social security number, date of birth, and name as read on your driver's license. When entering the building, you will be required to show picture identification.

Dated: March 29, 1991.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 91–8011 Filed 4–4–91; 8:45 am]

BILLING CODE 3127–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposals(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Self-Employment Questionnaire.

(2) *Form(s) submitted:* AA–4.

(3) *OMB Number:* 3220–0138.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 450.

(9) *Total annual responses:* 450.

(10) *Average time per response:* .3467.

(11) *Total annual reporting hours:* 156.

(12) *Collection description:* Section 2 of the Railroad Retirement Act provides for payment of annuities to qualified employees and their spouses. In order to receive an annuity, the applicant must stop all railroad work and all work for pay outside the railroad industry that is considered "Last person service" (LPS). This collection obtains information about the applicant's self-employment work to be used in making an LPS determination.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 91–7970 Filed 4–4–91; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended March 29, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47478.

Date Filed: March 25, 1991.

Parties: Members of the International Air Transport Association.

Subject: TC23 Reso/P 0443 dated February 22, 1991. Europe-Japan/Korea Resos R–1 to R–7.

Proposed Effective Date: April 1, 1991.

Docket Number: 47482.

Date Filed: March 28, 1991.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 476 (Fares between Japan and PRC) R–1 to R–6.

Proposed Effective Date: April 3, 1991.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91–8058 Filed 4–4–91; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended March 29, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits

were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceeding.

Docket Number: 47479.

Date filed: March 25, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 22, 1991.

Description: Application of USAir, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests a new or amended certificate of public convenience and necessity so as to authorize USAir to provide scheduled foreign air transportation on a nonstop basis between Pittsburgh, Pennsylvania and Toronto, Ontario, Canada.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-8059 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-62-M

[Docket 47414]

Chrysler Corp.; NHTSA—Fuel Economy Standards Enforcement

Order Setting Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding will be held before the Presiding Judge on Tuesday, May 14, 1991, at 10 a.m., in room 5332, U.S. Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC.

The parties shall submit to the Presiding Judge, on or before April 30, 1991, a proposed agenda for the prehearing conference, including:

1. A statement of the issues to be heard in this proceeding.

2. An outline of the discovery each party expects to conduct, including any problems that are anticipated in connection therewith, such as the anticipated need for compulsory process.

3. Any proposed stipulations that each party feels can reasonably be expected to be entered into between the parties, for the simplification of the issues.

4. A discussion of any dispositive motions that the parties anticipate may be filed.

5. A suggested procedural schedule.

6. A discussion of the matters and things set out in 49 CFR 511.21, to the extent they may be applicable to this proceeding, as well as any other matter which may aid the orderly and expeditious disposition of this proceeding.

Responses to the agenda statement of the opposing party may be filed, on or before May 7, 1991.

So ordered.

John J. Mathias,

Chief Administrative Law Judge.

[FR Doc. 91-8060 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review Will Rogers World Airport, Oklahoma City, OK

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Oklahoma City Airport Trust for Will Rogers World Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Will Rogers World Airport under part 150 in conjunction with the noise exposure maps and that this program will be approved or disapproved on or before September 22, 1991.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and the start of its review of the associated noise compatibility program is March 26, 1991. The public comment period ends March 25, 1991.

FOR FURTHER INFORMATION CONTACT: Dean A. McMath, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas, 76193-0612 (817) 624-5594. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Will Rogers World Airport are in compliance with applicable requirements of part 150, effective March 26, 1991. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before September 22, 1991. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompartible uses and for the prevention of the introduction of additional noncompatible uses.

The Oklahoma City Airport submitted to the FAA on February 1, 1991 noise exposure maps, descriptions and other documentation which were produced during the FAR part 150 Noise Exposure and Land Use Compatibility Program. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Oklahoma City Airport Trust. The specific maps under consideration are Existing Noise Exposure Map—1988, With Generalized Existing Land Use, and Recommended Land Use Plan with Future Noise Exposure Map—1995 Figures 22 and 28, pages 56 and 89 respectively, in the submission.

The FAA has determined that these maps for Will Rogers World Airport are in compliance with applicable requirements. This determination is effective on March 26, 1991. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part

150. Such determination does not constitute approval of the applicant's data, information, or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Will Rogers World Airport, also effective on March 26, 1991. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 22, 1991.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Airports Division, ASW-600, Fort Worth, Texas 76193-0600.

Airport Administration Office, Will Rogers World Airport, Oklahoma City, Oklahoma 73159.

Questions may be directed to the individual named above under the hearing, **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, March 26, 1991.

Hugh W. Lyon,

Assistant Manager, Airports Division.

[FR Doc. 91-8000 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-13-M

Aviation Security Advisory Committee; Meetings

AGENCY: Federal Aviation Administration.

ACTION: Notice of Aviation Security Advisory Subcommittee Meeting.

SUMMARY: Notice is hereby given of a meeting of the Security Operations Subcommittee of the Aviation Security Advisory Committee.

DATES: The meeting will be held April 19, 1991 from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in room 4234, Department of Transportation Headquarters (Nassif) Building, 400 7th Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-9863.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Security Operations Subcommittee of the Aviation Security Advisory Committee to be held April 19, 1991, in room 4234, Department of Transportation Headquarters (Nassif) Building, 400 7th Street, SW., Washington, DC.

The agenda for the meeting is to discuss the procedures for recommending security measures to the full committee. Attendance at the April 19, 1991 meeting is open to the public but limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the subcommittee at anytime.

Persons wishing to present statements or obtain information should contact the Office of the Assistant Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-9863.

Issued in Washington, DC on March 29, 1991.

O.K. Steele,

Assistant Administrator for Civil Aviation Security.

[FR Doc. 91-8001 Filed 4-4-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket No. 91-12]

Metric Conversion Policy

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed policy; request for comments.

SUMMARY: This document solicits comments on a proposed policy to pursue and promote an orderly conversion to the metric system on a recommended schedule for all FHWA Programs in accordance with statutory mandates. The action would involve the setting of metric conversion timetables for FHWA manuals, documents, publications, data collection and reporting, and construction contracts. It would implement legislation approved in 1988 and would comply with the policy established by the Department of Commerce, the lead agency under the statute, and the Department of Transportation (DOT). It will affect State and local governments, the highway industry and the public.

DATES: Comments must be received on or before May 20, 1991.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 91-12, Federal Highway Administration, Office of the Chief Counsel, room 4232, HCC-10, 400 Seventh St., SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring

notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. David R. Geiger, Chief, Contract Administration Branch, HNG–22 (202) 366–0355; or Mr. Wilbert Baccus, Office of the Chief Counsel, HCC–32 (202) 366–0780, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Section 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 102 Stat. 1107, 1451 (codified at 15 U.S.C. 205a)) which amended the voluntary metric conversion provisions of the Metric Conversion Act of 1975 (Pub. L. 94–168, 89 Stat. 1007), declares the metric system to be the "preferred system of weights and measures for United States trade and commerce." Federal agencies are required "by a date certain and to the extent economically feasible by the end of the fiscal year (September 30,) 1992, (to) use the metric system of measurement in its procurements grants and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units * * *." (emphasis supplied). The DOT has determined that all FHWA programs authorized under titles 23 and 49, United States Code, and related highway acts shall be converted to metric.

The U.S. Department of Commerce (DOC), as the lead Federal agency for metric conversion, promulgated its guidance for Federal agencies on January 2, 1991, at 56 FR 160 (15 CFR part 19), and earlier issued its interpretation of the International Systems of Units (metric system) for the United States at 55 FR 55242 on December 20, 1990. That guidance, in part, requires Federal agencies to: (1) Establish metric conversion plans and dates for use of the metric system to procurements, grants, and other business-related activities; (2) coordinate with other Federal agencies, State and local governments and the private sector; (3) assist in the removal of barriers to metric system transition; and (4) provide for full public involvement and timely information about significant metrication policies, programs and actions.

The DOC guidance further requires that Federal agencies * * * shall give due consideration to known effects of their actions on State and local governments and the private sector, publications, or agency statements of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the paying particular attention to effects on small business." 15 CFR 19.22; 56 FR 161.

The U.S. DOT has issued implementing guidance under DOT Order 1020.1C dated May 8, 1990, and its Attachment dated January 31, 1991 (available for inspection and copying in the files of the FHWA public docket in room 4232 as stated under the heading **ADDRESSES** above). The DOT guidance, in part, states that the

> Department of Commerce interprets the 1992 deadline for metric conversion to mean that plans scheduling such conversion should be in place by then, with some conversion underway and other conversion schedules as appropriate for later dates. For purposes of these guidelines, such scheduled conversion should be completed where possible by 1997, and where necessary to go beyond that year, firm conversion schedules should be in place.

It requires draft metric conversion plans be submitted to the DOT by April 15, 1991, with an approved plan due by May 8, 1991.

Purpose

The purpose of this notice is to solicit comments on this action and the proposed timetable for conversion to using the metric system for all FHWA programs.

Metric conversion for FHWA (and other Federal agencies) is no longer voluntary; it is now mandatory for FHWA's procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. Hence, the comments should be as specific as possible, e.g., if cost or time impacts are being addressed they should relate to an indentifiable element or program activity involved.

Definitions

Metric system means the International System of Units (SI) established by the General Conference of Weights and Measures in 1960, as interpreted or modified from time to time for the United States by the Secretary of Commerce under the authority of the Metric Conversion Act of 1975 and the Metric Education Act of 1978 (sec. 311(a) of Pub. L. 95–561, 92 Stat. 2211).

Other business-related activities means measurement sensitive commercial or business directed transactions or programs, i.e., standard or specification development, procedure or practice requirements of an agency.

Measurement sensitive means the choice of a measurement unit is a critical component of the activity, i.e., an agency rule/regulation to collect samples or measures something at specific distances or to specific depths, specifications, requiring intake or discharge of a product to certain volumes or flow rates, guidelines for clearances between objects for safety, security or environmental purposes, etc.

General Policy

It is the FHWA's policy to pursue and promote an orderly changeover to the metric system for all the programs in accordance with the statutory requirements, DOC policy guidance, and DOT guidance. Metric conversion of FHWA's procurement operations will be government by the Federal Acquisition Regulations issued by the General Services Administration (GSA), as well as other GSA and DOT regulations and policies.

In the development of the proposed transition table, which addresses only major items, the FHWA has attempted to be sensitive to all parties affected by the planned actions, recognizing that various industries and sectors of the economy will differ widely in the timing of their transition to use of metric measurement.

Program Exclusions

Metric usage shall not be required "* * * to the extent such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, * * *" 15 CFR 19.22; 56 FR 161. At this time, the FHWA does not propose any exceptions to metric conversion.

PROPOSED METRIC CONVERSION TIMETABLE

Program elements/activities	Target date
I. Develop FHWA metric conversion plan.	May, 1991.
II. Initiate revision of pertinent laws and regulations that serve as barriers to metric conversion.	My, 1992.
III. Conversion of FHWA manuals, documents, and publications.	May, 1994.
IV. Data collection and reporting.	May, 1995.
V. Direct Federal and Federal-aid construction contracts.	Sept. 30, 1996.

(Sec 5164, Pub. L. 100–418, 102 Stat. 1107, 1451 (codified at 15 U.S.C. 205a); Pub. L. 94–168, 89 Stat. 1007; Sec. 311(a), Pub. L. 95–561, 92 Stat. 2211; 23 U.S.C. 315; 49 CFR 1.48)

Issued on: April 1, 1991.

T.D. Larson,

Administrator.

[FR Doc. 91–8061 Filed 4–4–91; 8:45 am]

BILLING CODE 4910-22-m

Sunshine Act Meetings

Federal Register
Vol. 56, No. 66
Friday, April 5, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold Open Commission Meeting, Tuesday, April 9, 1991

April 2, 1991.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, April 9, 1991, which is scheduled to commence at 9:30 a.m., in room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Chief Engineer—Title: Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services (GEN Docket No. 90-217). Summary: The Commission will consider adoption of a *Report and Order* in this proceeding.

2—Mass Media—Title: Policies and Rules Concerning Children's Television Programming, Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations (MM Docket Nos. 90-570 and 83-670). Summary: The Commission will consider adoption of a *Report and Order* implementing the provisions of the Children's Television Act of 1990.

3—Mass Media—Title: Evaluation of the Syndication and Financial Interest Rules (MM Docket No. 90-162). Summary: The Commission will consider whether to revise its Network Television Syndication and Financial Interest Rules.

4—Common Carrier—Title: LEC Price Cap Reconsideration (CC Docket No. 87-313). Summary: The Commission will consider an *Order on Reconsideration* responding to petitions for reconsideration of the Commission's *LEC Price Cap Order*, released October 4, 1990.

5—Common Carrier—Title: Policies and Rules Concerning Operator Service Providers (CC Docket No. 90-313, RM 6767). Summary: The Commission will consider adoption of a *Report and Order* implementing provisions of the Telephone Operator Consumer Services Improvement Act of 1990.

6—Common Carrier—Title: Cincinnati Bell Telephone Company Calling Card Validation Data and Related Practices (CC Docket No. 89-323). Summary: The Commission will consider the conclusions to issues raised in the investigation of Cincinnati Bell Telephone Company calling card practices.

7—Common Carrier—Title: Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards. Summary: The Commission will consider proposals to establish the obligation of local exchange carriers to provide all interexchange carriers access to certain information and services for both interexchange carriers and local exchange carriers joint use calling cards.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Issued: April 2, 1991.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-8137 Filed 4-3-91; 2:30 pm]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:10 p.m. on Tuesday, April 2, 1991, the Board of Directors of the Federal Deposit Insurance Coporation met in closed session jointly with the Board of Directors of the Resolution Trust Corporation ("RTC") to consider the following:

Matters relating to the Corporation's and the RTC's corporate activities.

Personnel matter.

Matters relating to a certain financial institution.

Matters relating to an assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr. and Director Robert L. Clarke (Comptroller of the Currency, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: April 3, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91-8153 Filed 4-3-91; 12:22 pm]

BILLING CODE 6714-01-M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10:00 a.m., Tuesday, April 9, 1991.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTER TO BE DISCUSSED:

Ex Parte No. 346 (Sub-No. 26), *Association of American Railroads—Petition to Exempt Industrial Development Activities From 49 U.S.C. 10761(a), 10762(a)(1), 11902, 11903, and 11904(a).*

Docket No. AB-52 (Sub-No. 71X), *The Atchison, Topeka and Santa Fe Railway Company—Abandonment Exemption—In Lyon County, KS.*

Ex Parte No. 494, *Rail System Diagram Map.*

Section 5a No. 106, *Household Goods Freight Forwarder Bureau.*

Application of the Commission's Safety Fitness Policy in Motor Carrier Licensing and Finance Dockets—A Reassessment in Light of Recent Legislation and DOT Policy Revisions.

CONTACT PERSON FOR MORE INFORMATION: A Dennis Watson, Office of External Affairs, Telephone: (202) 275-7252, TDD: (202) 275-1721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-8176 Filed 4-3-91; 2:15 pm]

BILLING CODE 7035-01-M

SECURITIES AND EXCHANGE COMMISSION.

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [56 FR 12975, March 28, and 56 FR 13708 April 3, 1991]

STATUS: Open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATES PREVIOUSLY ANNOUNCED:

Tuesday, March 26, 1991.
Monday, April 1, 1991.

CHANGE IN THE MEETING: Rescheduling.

An open meeting scheduled for Wednesday, April 3, 1991, at 10:00 a.m., has been rescheduled for Thursday, April 11, 1991, at 9:30 a.m.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Hirsch at (202) 272–2100.

Dated: April 3, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–8151 Filed 4–3–91; 2:15 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 56, No. 66
Friday, April 5, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[FRL-3789-5]

Underground Injection Control Program; State-Administered Programs; Incorporation by Reference Update

Correction

In rule document 91-4622 beginning on page 9408 in the issue of Wednesday, March 6, 1991, make the following corrections:

§ 147.550 [Corrected]

1. On page 9414, in the second column, in § 147.550(a)(3), in the second line, "12-5-12" should read "12-5-120".

§ 147.2500 [Corrected]

2. On page 9420, in the 3d column, in § 147.2500(a), in the 11th line, "5l" should read "51".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[GEN Docket No. 90-133; FCC 91-17]

Maritime Radio Service

Correction

In rule document 91-5303 beginning on page 9881 in the issue of Friday, March 6, 1991, make the following corrections:

§ 80.359 [Corrected]

1. On page 9890, in the table for § 80.359(a), make the following changes:

a. In the fourth column, in the first entry, remove "4209.0" after "4220.0";

b. In the same column, in the seventh entry, "22444.05" should read "22444.5"; and

c. In the sixth column, in the second entry, "632.0" should read "6332.0".

2. On the same page, in the first column, in § 80.359(b), in the last line, "CCIA" should read "CCIR".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 316

[Docket No. 85N-0483]

RIN 0905-AB55

Orphan Drug Regulations

Correction

In proposed rule document 91-2052 beginning on page 3338, in the issue of Tuesday, January 29, 1991, make the following corrections:

1. On page 3339, in the first column, in the first full paragraph, in the fifth line from the bottom, "§ 316.12(d)" should read "§ 316.12(b)".

2. On page 3345, in the third column, in subpart F, in the third line from the bottom "Sections" should read "Secs.".

§ 316.36 [Corrected]

3. On page 3351, in the first column, in § 316.36(a)(1), in the first line, "Directory" should read "Director".

§ 316.52 [Corrected]

4. On the same page, in the second column, in § 316.52(a), in the second line, "request" was misspelled.

5. On the same page, in the third column, in § 316.52(a), in the second line, "acknowledged" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0165]

Public Meeting; Food Labeling; Serving Sizes for Use in Nutrition Labeling

Correction

In notice document 91-4467 beginning on page 8084 in the issue of Tuesday, February 26, 1991, make the following corrections:

1. On page 8086, in the second column, under the heading b. *Nutrition Labeling* ***, in the fourth line, remove "13".

2. In the same column, under the heading e. *Matters for discussion:*, in the third line from the end of the paragraph, remove "14".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-940-01-5410-B004; CACA 27443]

Conveyance of Mineral Interests in California

Correction

In notice document 90-29194 appearing on page 51353, in the issue of Thrusday, December 13, 1990, make the following corrections:

1. On the same page, in the first column:

a. In the fifth line from the bottom, after "E¼SW¼", insert a "," and "SW½," should read "SW¼,".

b. In the fourth line from the bottom, after "SW¼" but before "W½", insert "SW¼".

BILLING CODE 1505-01-D

DEPARMENT OF THE INTERIOR

Bureau of Land Management

[NM-010-4212-13/GPO-0109]

Realty Action; Exchange of Lands in New Mexico

Correction

In notice document 90-12448 beginning on page 21948 in the issue of Wednesday, May 30, 1990, make the following corrections:

. On page 21948, in the third column, in the land description under "New Mexico Principal Meridian", make the following changes:

a. In Sec. 10, "W½SE, NE¼SE¼;" should read "W½SE, NE¼SW¼;";

b. In Sec. 14, "SE¼NW¼;" should read "SW¼NW¼;"; and

c. In Sec. 23, "NE¼SE¼," should read "NE¼SW¼,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-01-4212-13; N-54049]

Realty Action; Exchange of Public and Private Lands in Elko and Clark Counties, Nevada

Correction

In notice document 90-30509 beginning on page 53588 in the issue of Monday, December 31, 1990, make the following correction:

On page 53588, in the third column, under T.40 N., R. 58E., in Sec. 14, in the first line "N½NE¼" should read "N½SW¼"

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 70, and 75

RIN 1219-AA27

Approval, Exposure Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines

Correction

Proposed rule document 91-7592 appearing on page 13404, in the issue of Tuesday, April 2, 1991, was published in the "Rules" section of the issue. It should have appeared in the "Proposed Rules" section.

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AD27

Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository

Correction

In rule document 91-4483, beginning on page 7787 in the issue of Tuesday, February 26, 1991, make the following correction:

Appendix D to Part 2 [Corrected]

On page 7798, in the table, in the third column, in the fourth line from the bottom "Appeals" was misspelled.

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255]

Consumer's Power Co.; Notice of Issuance of Facility Operating License No. DPR-20

Correction

In notice document 91-4564 beginning on page 8220 in the issue of Wednesday, February 27, 1991 make the following corrections:

1. On page 8220, in the third column, in the second line "CPR" should read "DPR".

2. On the same page, in the same column, in the fifth line "DPE-20" should read "DPR-20".

BILLING CODE 1505-01-D

Federal Register

Friday
April 5, 1991

Part II

Department of Agriculture

Rural Electrification Administration

7 CFR Part 1773

Policy on Audits of Electric and Telephone Borrowers; Proposed Rule

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1773

RIN 0572-AA36

Policy on Audits of Electric and Telephone Borrowers

AGENCY: Rural Electrification Administration, REA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR chapter XVII by revising part 1773, REA Policy on Audits of Electric and Telephone Borrowers. Revisions are being proposed to the existing policy to update REA's auditing and reporting requirements to include the latest auditing standards promulgated by the American Institute of Certified Public Accountants, to strengthen REA's policies concerning resolution of audit recommendations, and to require CPAs to notify the Office of Inspector General (OIG) directly of any indications of irregularities.

DATES: Public comments must be received or postmarked by REA no later than June 4, 1991.

ADDRESSES: Submit written comments to Mr. William E. Davis, Director, Borrower Accounting Division, Rural Electrification Administration, room 2231, South Building, U.S. Department of Agriculture, Washington, DC, 20250–1500. REA requests an original and two copies of all comments. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address. REA requests an original and two copies of all comments.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Davis, Director, Borrower Accounting Division, at the above address, telephone number (202) 382–9450.

SUPPLEMENTARY INFORMATION: REA proposes to amend 7 CFR chapter XVII, by revising part 1773, REA Policy on Audits of Electric and Telephone Borrowers. This rule was formerly published in the **Federal Register** as 7 CFR part 1789. This rule was redesignated as part 1773 in the **Federal Register** on September 27, 1990 at 55 FR 39393. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and, therefore, has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment. The reporting and/or recordkeeping requirements contained in these proposed rules have been submitted for approval to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Those requirements will not become effective until approved by OMB. Public reporting for this collection of information is estimated to average 2 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Office, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503. The programs listed in the Catalog of Federal Domestic Assistance that are impacted are 10.850—Rural Electrification Loans and Loan Guarantees, 10.851—Rural Telephone Loans and Loan Guarantees, 10.852—Rural Telephone Bank Loans, and 10.853, Rural Economic Development Loans and Grants. For reasons set forth in the final rule related notice to 7 CFR part 3015, subpart V (50 FR 47034, November 14, 1985) this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

Revisions to 7 CFR part 1773, REA Policy on Audits of Electric and Telephone Borrowers, are being proposed to update REA's auditing and reporting requirements to include the latest auditing standards promulgated by the American Institute of Certified Public Accountants, to stengthen REA's policies concerning resolution of audit recommendations, to address the Department's regulations on debarment and suspension, and to require CPAs to report to OIG directly of any indications of irregularities.

Recent revisions to generally accepted auditing standards require that audits of entities receiving Federal financial assistance be designed to determine whether they contain material misstatements resulting from the violation of laws, regulations, REA bulletins, and contracts that have a direct and material effect on amounts reported in the financial statements. As a result, the borrower shall furnish to REA, in addition to the opinion report on the financial statements and the management letter currently required by REA, a report on compliance and a report on internal controls issued by a CPA.

List of Subjects in 7 CFR Part 1773

Accounting.

In view of the above, REA proposes to revise 7 CFR part 1773 as follows:

PART 1773—REA POLICY ON AUDITS OF ELECTRIC AND TELEPHONE BORROWERS

Subpart A—General Provisions

Subpart B—Selection of CPA and REA Approval

Subpart C—Submission and Review of Audit Report, Report on Compliance, Report on Internal Controls, and Management Letter

Authority: 7 U.S.C. 901 et seq.; 7 U.S.C. 1921 et seq.

Subpart A—General Provisions

§ 1773.1 General.

The standard REA security instruments contain provisions that require REA borrowers to prepare and furnish to REA at least once during each 12-month period, a full and complete report of its financial condition, operations, and cash flows in form and substance satisfactory to REA, audited and certified by an independent certified public accountant (CPA), satisfactory to REA. This part 1773 implements such provisions by setting forth REA policy on the selection and retention of independent CPAs selected to perform audits of REA borrowers, the auditing and reporting requirements for CPAs selected to perform audits of REA borrowers, and the documentation standards for work done in connection with audit reports prepared for REA borrowers.

Note: In this part 1773, the terms "CPA" and "CPA firm" are used interchangeably as are REA Administrator and RTB Governor.

§ 1773.2 REA audit requirements.

(a) *Annual audit.* Each borrower shall have its financial statements audited annually by a CPA selected by the borrower and approved by REA as set forth in § 1773.17. An annual audit, performed in accordance with this part 1773, and an audit report, report on compliance, report on internal controls, and management letter prepared in accordance with Subpart D, of this part, meet the requirements of the REA security instruments. Annual reports containing audited financial statements shall not be submitted in lieu of the audit report specified in § 1773.30(a).

(b) *Definition of Audit.* Audit, as used in this part 1773, refers to an examination of financial statements by an independent CPA for the purpose of expressing an opinion on the fairness with which those statements present financial position, results of operations and changes in cash flows in conformity with generally accepted accounting principles (GAAP) and for determining whether the borrower has complied with applicable laws, regulations, REA bulletins, and contracts for those transactions and events reflected in the financial statements. A report prepared in connection with a review or compilation of financial statements as defined in Statement of Standards for Accounting and Review Services No. 1, Compilation and Review of Financial Statements, does not satisfy the requirements of the REA security instruments. Additionally, reports as described in Statement on Audit Standards (SAS) No. 14, Special Reports, and SAS No. 35, Special Reports—Applying Agreed-upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement, do not satisfy the REA loan security instrument requirements.

(c) *Compliance testing.* The CPA shall consider laws, regulations, REA bulletins, and contracts that are generally recognized by auditors to have a direct and material effect on the determination of financial statement amounts. For purposes of this part 1773, the CPA shall consider such laws, regulations, REA bulletins, and contracts from the perspective of their known relation to audit objectives derived from financial statement assertions rather than from the perspective of legality per se. The CPA shall assess the risk that errors and irregularities may cause the financial statements to contain material misstatements. Based upon that assessment, the CPA shall design the audit to provide reasonable assurance of detecting errors and irregularities that are material to the financial statements. When assessing the requirements for compliance testing, the CPA shall, among other laws and regulations, consider all regulations issued and codified by REA in 7 CFR parts 1700 through 1799 and by the RTB in 7 CFR part 1610. If the CPA determines that a violation of 7 CFR 1711.1, Advances, and the resulting reclassification of a long-term liability to a short-term liability will result in a material misstatement of the financial statements, the procedures detailed in § 1773.40 must be performed. The procedures detailed in § 1773.40 are to be considered minimum requirements and may be expanded during the course of the audit. They may not, however, be reduced or eliminated.

(d) Each borrower shall establish an annual "as of" audit date within twelve months of the date of receipt of the first advance of REA, or Federal Financing Bank (FFB) loan funds and prepare financial statements as of the date established. The borrower's board of directors or audit committee shall select a qualified CPA as directed in § 1773.15 to perform an annual audit of these financial statements. The borrower shall forward two copies of the audit report, report on compliance, report on internal controls, and management letter to REA within four months of the "as of" audit date and one copy of each of the above reports to supplemental lenders, if appropriate. Until all loans made or guaranteed by REA have been repaid, the borrower shall submit an annual audit report, report on compliance, report in internal controls, and management letter, as set forth in § 1773.26.

(e) Any borrower qualifying as a unit of state or local government or Indian tribe as such terms are defined in the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.,*) and OMB Circular A–128, Audits of State and Local Governments, and receiving total Federal financial assistance equal to or in excess of $100,000 during the fiscal year, shall have an audit performed and submit an audit report meeting the requirements of the Single Audit Act of 1984. Borrowers receiving total Federal financial assistance of between $25,000 and $100,000 during the fiscal year may have an audit performed meeting either the requirements of the Single Audit Act of 1984 or this part 1773. Borrowers receiving less than $25,000 in total Federal financial assistance during the fiscal year shall have an audit performed that meets the requirements of this part 1773. Borrowers qualifying as a unit of state or local government or Indian tribe as defined in the Single Audit Act of 1984 shall notify REA, within 30 days of the "as of" audit date, of the total Federal financial assistance received during the audit year and whether they will have an audit performed in accordance with the Single Audit Act of 1984 or this part 1773. Borrowers electing to comply with this part 1773 must select a CPA that meets the qualifications set forth in § 1773.4.

An audit report meeting the requirements of the Single Audit Act of 1984 shall be sufficient to satisfy that borrower's obligations under this part 1773.

§ 1773.3 Borrowers' responsibilities.

(a) REA borrowers are responsible for:

(1) The selection of a qualified CPA that meets the requirements set forth in § 1773.4;

(2) The selected CPA complying with this part 1773; and

(3) The receipt from the CPA selected of a lower tier covered transaction certification as required under the provisions of Executive Orders 12549 and 12689, Debarment and Suspension, and any rules or regulations issued thereunder.

(4) The submission of the required audit report, report on compliance, report on internal controls, and management letter as set forth in § 1773.26. Additionally, the borrower shall provide comments on the findings and recommendations in the audit report, report on compliance, report on internal controls, and management letter, including a plan for corrective action taken or planned and comments on the status of corrective action taken on previously reported findings and recommendations. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

(b) Annual audit reports, reports on compliance, reports on internal controls, and management letters that fail to meet the requirements detailed in this part 1773 shall be returned to the borrower with a written explanation of noncompliance. Within 60 days of the date of the letter detailing the noncompliance, the borrower shall submit corrected reports to REA.

§ 1773.4 Qualifications of CPA.

(a) *Certification.* The accountant auditing the financial statements of an REA borrower shall be a CPA in good standing of some state, territory, or the District of Columbia. (As used in this part 1773, the term "state" shall include any state, territory, or the District of Columbia.) The CPA does not have to be licensed by the state in which the borrower is located; however, the CPA is required to abide by the rules and regulations of professional conduct promulgated by the accountancy board of the state in which the borrower is located.

(b) *Independence.* A CPA shall be considered independent if he/she meets the standards for independence contained in the American Institute of Certified Public Accountants (AICPA) Code of Professional Ethics in effect at the time the CPA's independence is under review and if the CPA:

(1) Does not have and has not had any direct financial interest or any material indirect financial interest in the borrower during the period covered by the audit; and

(2) Is not and was not during the period under audit, connected with the borrower as a promoter, underwriter, trustee, director, officer, or employee.

(c) *Peer Review Program.* The CPA shall belong to, participate in, and have undergone a peer review conducted by an approved peer review program as set out in § 1773.9(b) within three years of the current year's "as of" audit date.

(1) A CPA receiving an unqualified peer review report shall be a qualified CPA under § 1773.3(a)(1).

(2) If a CPA receives a qualified or adverse peer review report, the CPA must undergo a second peer review within 18 months of the date of the qualified or adverse report. A CPA receiving an unqualified second peer review report shall be a qualified CPA under § 1773.3(a)(1).

(3) A CPA receiving a second qualified or adverse peer review report shall not meet the requirements of a qualified CPA under § 1773.3(a)(1).

§ 1773.5 Audit standards.

The CPA shall perform the annual audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States (GAGAS) and this part 1773. The CPA shall adhere to GAGAS in effect at the audit date unless directed otherwise, in writing, by REA.

(a) The CPA shall perform an examination of the financial statements, including such tests of the accounting records and such other auditing procedures that are sufficient to enable the CPA to express an opinion on the financial statements and to issue the required reports on compliance and internal controls and the management letter. The borrower shall not cause the audit to be limited to the extent that the CPA is unable to meet REA's audit requirements or to provide an unqualified opinion that the financial statements are presented fairly in conformity with GAAP. The requirements of this part 1773 are not satisfied if the CPA has to qualify the opinion in the audit report due to limitations placed on the examination by the borrower.

(b) If the CPA determines, during the audit, that an unqualified opinion cannot be issued due to a scope limitation imposed by the borrower, the CPA shall immediately contact the Director, Borrower Accounting Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250–1500 (Director, BAD). (The term "Director, BAD", as used in this part 1773, shall include any successor having similar responsibilities.) The Director, BAD, shall endeavor to resolve the matter with the borrower.

§ 1773.6 Audit date.

(a) The annual audit shall be performed as of the end of the same calendar month each year unless prior approval to change the "as of" audit date is obtained, in writing, from REA. A borrower may request a change in the audit date by writing to the appropriate REA area office at least 60 days prior to the newly requested audit date. A change in an audit date must result in an audit period of less than twelve months. For example, a borrower wishing to change its audit date from December 31, 19X1 to June 30, must make the change effective June 30, 19X2.

(b) Comparative financial statements shall be prepared reflecting the borrower's accounting records "as of" the new audit date as follows: A borrower changing its audit date from December 31, 19X1 to June 30, 19X2 shall have the CPA report on statements in the following manner:

Previously issued statements		Statements prepared "as of" new audit date	
12/31/X1	12/31/X0	6/30/X2	6/30/X1
(Statements need not be reissued)			

§ 1773.7 Disclosure of irregularities and illegal acts.

(a) The CPA shall design audit steps and procedures to provide reasonable assurance of detecting errors, irregularities, and other illegal acts that could have a direct and material effect on financial statement amounts. As used in this part 1773, an "irregularity" shall be defined as any intentional misstatement or omission of amounts or disclosures in financial statements. Irregularities include fraudulent financial reporting undertaken to render financial statements misleading, sometimes called management fraud, and misappropriation of assets. Irregularities may involve, but are not limited to, acts such as the following:

(1) Manipulation, falsification, or alteration of accounting records or supporting documents from which financial statements are prepared.

(2) Misrepresentation or intentional omission of events, transactions, or other significant information.

(3) Intentional misapplication of accounting principles relating to amounts, classification, manner of presentation, or disclosure.

(b) The CPA shall extend normal audit steps and procedures if there is an indication that an irregularity or illegal act may have occurred. The extended audit steps are to be directed to obtaining sufficient evidence to determine whether, in fact, an irregularity or illegal act has occurred, and, if so, the possible effect on the borrower's financial statements.

(c) The CPA shall report all instances or indications of irregularities or illegal acts, whether material or not to:

(1) The president of the borrower's board of directors,

(2) Supplemental lenders, if applicable,

(3) The Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–1500 (OIG), and

(4) The Director, BAD.

§ 1773.8 Access to audit working papers.

A CPA performing an audit under the provisions of this part 1773 shall make the audit working papers available to REA, OIG, and the General Accounting Office (GAO) upon request. The CPA shall permit REA, OIG, and GAO to photocopy all audit workpapers.

§ 1773.9 Quality review of working papers.

(a) The CPA shall belong to, participate in, and have undergone a peer review conducted by an approved peer review program as set forth in § 1773.9(b) within three years prior to the current year's "as of" audit date.

(b) Acceptable peer review programs. The following peer review programs satisfy the requirements of § 1773.4(c):

(1) The peer review program conducted by the AICPA's Division for CPA Firms. The CPA firm selecting this program shall belong to either the Private Companies Practice Section (PCPS) or the SEC Practice Section.

(2) The peer review program conducted by the regulated audit program group of the National Conference of CPA Practitioners.

(3) Independent peer review programs approved by REA. These programs shall be approved if they require their members to abide by the following:

(i) Ensure that the CPA can legally engage in the practice of certified public accounting.

(ii) Adhere to the quality control standards established by the AICPA Quality Control Standards Committee that are in effect at the time of RE's evaluation.

(iii) Submit to peer reviews of the CPA's accounting and audit practice every three years or at such additional times as designated by its own executive committee. The reviews are to be conducted in accordance with review standards established by the PCPS Peer Review Manual.

(iv) Ensure that all professionals in the firm, including CPAs and nonCPAs, take part in qualifying continuing professional education as follows:

(A) Participate in at least one-hundred-twenty hours every three years, but not less than twenty hours in any one year, or

(B) Comply with mandatory continuing professional education requirements for state licensing or for state society membership, provided such state or society requires, during the reporting period, an average of forty hours per year of continuing professional education, and provided each professional in the CPA firm participates in at least twenty hours every year.

(C) A qualified continuing professional education course shall be one which meets the standards of the PCPS.

(c) Notification. The CPA shall notify the Director, BAD, in writing, of his/her participation in a peer review program. REA will notify the CPA within 60 days of receipt of this notice if the peer review program selected is unacceptable and the reasons therefor.

(d) Submission of reports. The CPA shall submit to the Director, BAD, a copy of any peer review report and accompanying letter of comment, if any, within 60 days of the date of receipt of such report and letter of comment. If the peer review report indicates a follow-up review will be made, the CPA shall submit subsequent reports to the Director, BAD, within 60 days of the date of the receipt of such reports. Peer review reports shall be submitted to the Director, BAD, at least once every three years, or more frequently, if required by the peer review program. A copy of the peer review report and accompanying letter of comments must be made available to OIG, upon request.

§ 1773.10 Audit requirements of supplemental lenders.

Many borrowers have received loans from other lenders which are secured under the same security document as the loans made or guaranteed by REA or FFB. These lenders are referred to in this part 1773 as "supplemental lenders." An audit report, report on compliance, report on internal controls, and management letter shall be furnished by the borrower to each supplemental lender, if applicable.

§§ 1773.11–1773.14 [Reserved]

Subpart B—Selection of CPA and REA Approval

§ 1773.15 Board of Directors responsible for selection.

(a) *Selection.* The borrower's board of directors or an audit committee composed entirely of borrower board members is responsible for selecting a qualified CPA. In selecting a CPA, the borrower shall consider the qualifications of CPAs available to do the work, with particular regard to experience in performing audits of utilities and the ability to complete the audit and submit the reports and management letter within three months of the "as of" audit date.

(b) *Board approval.* The board's approval of a CPA shall be recorded by a board resolution stating that:

(1) The CPA meets REA's qualifications to perform an audit, and

(2) The borrower and CPA will enter into an audit agreement in accordance with § 1773.16.

§ 1773.16 Audit agreement.

(a) An audit agreement shall be prepared and signed by the CPA and the borrower. This audit agreement must state that the audit is being performed as a requirement of the REA security instrument and any violation of REA audit requirements, procedures, or documentation requirements shall place the REA borrower in technical default of the REA security instrument. This agreement must also include provisions which assure the following:

(1) The audit report shall be signed by a CPA or CPA firm in good professional standing with a state's board of accountancy.

(2) The CPA is independent as defined in § 1773.4(b).

(3) The CPA shall comply with GAGAS, the rules and regulations of professional conduct promulgated by the accountancy board of the state in which the borrower is located, and the Code of Professional Ethics of the AICPA.

(4) The CPA shall perform the audit and shall prepare the audit report, report on compliance, report on internal controls, and management letter in accordance with the requirements of this part 1773.

(5) The CPA shall report all audit findings to the board of directors as required in § 1773.25 (b).

(6) The audit report, report on compliance, report on internal controls,

and management letter with copies for transmittal to REA, and supplemental lenders, if applicable, shall be submitted to the borrower's board of directors within three months of the "as of" audit date.

(7) Documentation and evidence of audit work performed shall be prepared in accordance with the professional standards of the AICPA and the requirements of this part 1773.

(8) Audit working papers shall be made available to REA, OIG, and GAO upon request. REA, OIG, or GAO may photocopy all audit and compliance workpapers.

(9) The CPA belongs to, participates in, has undergone a peer review conducted by an approved peer review program within three years of the current year's "as of" audit date, has received an unqualified peer review report, and has submitted a copy of said report to REA, as required in § 1773.9.

(10) The CPA shall disclose all disallowances resulting from testing performed as set forth in § 1773.40.

(11) The CPA shall follow the requirements of reporting irregularities and illegal acts as outlined in § 1773.7.

(12) The CPA has submitted to the borrower a duly executed certification as required pursuant to the provisions of Executive Orders 12549 and 12689, Debarment and Suspension, and any rules or regulations issued thereunder.

(b) The audit agreement may cover additional terms and conditions not listed in paragraph (a) of this section.

(c) A copy of the audit agreement shall be available at the borrower's office for inspection by REA personnel. Additionally, one copy of the current audit agreement shall be maintained in the CPA's working papers or permanent file.

§ 1773.17 Notification of selection.

(a) When the initial selection or subsequent change of a CPA by a borrower has been made, the borrower shall so advise, in writing, REA and supplemental lenders, if applicable.

(b) Notification to REA and supplemental lenders, if applicable, that the same CPA has been selected for succeeding audits of the borrower's financial statements is not required; however, the procedure must be followed for each new CPA selected, even though such CPA may previously have been approved by REA to audit records of other REA borrowers. Changes in the name of a CPA firm are considered to be a change in a CPA.

(c) The borrower shall notify REA and supplemental lenders, if applicable, of its selection, in writing, at least 90 days before the "as of" audit date. Notification shall include the reason(s) for the change. REA shall notify the borrower, in writing, within 30 days of the date of receipt of such notice, if the change in CPA is not satisfactory.

§ 1773.18 Dismissal of CPA.

The borrower shall immediately notify the Director, BAD, in writing, of its intention to dismiss a CPA prior to the CPA issuing its reports and management letter. Notification shall include the reason(s) for the dismissal.

§§ 1773.19–1773.24 [Reserved]

Subpart C—Submission and Review of Audit Report, Report on Compliance, Report on Internal Controls, and Management Letter

§ 1773.25 CPA's submission of the audit report, report on compliance, report on internal controls, and management letter.

(a) *Time limit.* As soon as possible after completion of the audit, but within three months of the "as of" audit date, the CPA shall deliver copies of the audit report, report on compliance, report on internal controls, and the management letter to the president of the borrower's board of directors. As a minimum, copies should be provided for each member of the board of directors and the manager. Two copies shall be provided to the borrower for transmittal to REA and one copy for each supplemental lender, if applicable.

(b) *Communication with the Board of Directors.* In addition to providing sufficient copies of the audit report, report on compliance, report on internal controls, and management letter for each member of the borrower's board of directors, the CPA shall report all audit findings to the board of directors. REA recommends that audit findings be communicated orally; however, the communication may be oral or written, at the borrower's discretion. If the information is communicated orally, the CPA shall document the communication by appropriate memoranda or notations in the working papers. If the CPA communicates in writing, a copy of the written communication shall be included in the CPA's audit working papers or permanent file.

(c) *Matters to be communicated.* Matters communicated to the board of directors shall include, but are not limited to:

(1) The initial selection of and changes in significant accounting policies;

(2) The methods used to account for significant, unusual transactions and the effects of significant accounting policies in controversial or emerging areas;

(3) The process utilized by management in formulating significant accounting estimates and the basis for the CPA's conclusions regarding the reasonableness of these estimates;

(4) Audit findings and recommendations, including audit adjustments that either individually or in the aggregate have a significant effect on the borrower's financial statements;

(5) The CPA's responsibility for other information presented with the audited financial statements, any audit procedures performed, and the results;

(6) any disagreements with management, whether or not satisfactorily resolved, concerning matters that individually or in the aggregate may be significant to the borrower's financial statements or the auditor's report, report on compliance, report on internal controls, or management letter;

(7) Significant matters that were the subject of consultations with other accountants;

(8) Significant issues discussed with management with regard to the initial or recurring retention of the CPA; and

(9) Any serious difficulties encountered in dealing with management during the performance of the audit.

§ 1773.26 Borrower's review and submission of the audit report, report on compliance, report on internal controls, and management letter.

(a) The borrower's board of directors should note and record receipt of the audit report, report on compliance, report on internal controls, and management letter and any action taken in response to the reports or management letter in the minutes of the board meeting at which such reports and management letter are presented.

(b) The borrower shall forward two copies of the audit report, report on compliance, report on internal controls, management letter, and plan for corrective action, if any, to REA within four months of the "as of" audit date. One copy of the same information is to be forwarded to each supplemental lender, where applicable.

(c) The borrower shall furnish REA and each supplemental lender, where applicable, copies of each special report, summary of recommendations or similar communications, if any, received from the CPA as a result of the audit.

§§ 1773.27–1773.29 [Reserved]

Subpart D—Audit Reporting Requirements

§ 1773.30 General.

The CPA shall: (a) Provide an audit report, as illustrated in appendixes A, exhibit 1 (Electric), and B, exhibit 1, (Telephone) to this part.

(b) Provide a report on compliance, as illustrated in appendixes A, exhibits 2 through 4 (Electric) and B, exhibits 2 through 4 (Telephone) to this part.

(c) Provide a report on internal controls, as illustrated in appendixes A, exhibits 5 and 6 (Electric) and B, exhibits 5 and 6 (Telephone) to this part.

(d) Provide a management letter as illustrated in appendix C to this part.

(e) Deliver the audit report, report on compliance, report on internal controls, and management letter (with copies as required in § 1773.25) to the borrower as soon as possible after completion of the audit but not more than three months after the "as of" audit date.

§ 1773.31 Audit report.

(a) *Electric borrowers.* The CPA shall prepare a written report on comparative balance sheets, statements of revenue and patronage capital (or retained earnings, if appropriate) and statements of cash flows. The report shall cover all statements presented. A suggested format for this report is shown in appendix A, exhibit 1 to this part.

(b) *Telephone borrowers.* The CPA shall prepare a written report on comparative balance sheets, statements of income and retained earnings (or patronage capital, if appropriate) and statements of cash flows. The report shall cover all statements presented. A suggested format for this report is shown in appendix B, exhibit 1 to this part.

(c) The CPA shall report on the adequacy of disclosures in the notes to the financial statements. Suggested notes to the financial statements include, but are not limited to:

(1) Significant accounting policies;

(2) Depreciable assets (property, plant, and equipment) and depreciation rates;

(3) Assets subject to lien;

(4) Investments, (including temporary cash investments);

(5) Subsidiaries and affiliated companies;

(6) Segment information (including nonregulated activities);

(7) Leases;

(8) Deferred charges;

(9) Prepaid expenses;

(10) Long-term debt;

(11) Deferred credits;

(12) Equity and capital accounts (including restrictions on return of capital);

(13) Pension and retirement plans (including deferred compensation arrangements);

(14) Income tax or tax exempt status;

(15) Commitments or contingent liabilities;

(16) Litigation;

(17) Related party transactions. The borrower shall disclose all related party transactions regardless of materiality in a manner consistent with the disclosure requirements set forth in Statement of Financial Accounting Standards No. 57, Related Party Disclosures, for material related party transaction;

(18) Subsequent events;

(19) Unusual accruals and allowances, such as extraordinary retirements;

(20) Prior period adjustments; and

(21) Where applicable, such additional disclosures specified in GAAP and GAGAS as may be necessary to allow readers to use, understand, and interpret the financial statements.

(d) The REA borrower shall disclose the amount of unbilled revenue, if material, in the notes to the financial statements. The CPA shall also report on the adequacy of this disclosure in accordance with § 1773.31(c) above.

§ 1773.32 Report on compliance.

(a) The CPA shall prepare a written report on the tests performed for compliance with applicable laws, regulations, REA bulletins, and contracts. This report shall contain a statement of positive assurance on those items which were tested for compliance and a statement of negative assurance for those items not tested. The report shall also disclose the status of known but uncorrected significant or material findings and recommendations from prior audits that affect the current audit objective. If, based upon assessments of materiality and audit risk, the CPA concludes that it is not necessary to perform tests of compliance with laws, regulations, REA bulletins, and contracts, the CPA shall issue a report as illustrated in appendix A, exhibit 2, (Electric) and appendix B, exhibit 2 (Telephone) to this part. If the CPA determines that testing for compliance with laws, regulations, REA bulletins, and contracts is necessary, and no material instances of noncompliance are found, the CPA shall issue a report as illustrated in appendix A, exhibit 3 (Electric) and appendix B, exhibit 3 (Telephone) to this part. The report shall include all instances of noncompliance that either individually or in the aggregate, equal or exceed $1,000, and all instances or indications of irregularities or illegal acts regardless of materiality. Illustrations of this report are shown in appendix A, exhibit 4 (Electric) and appendix B, exhibit 4 (Telephone) to this part.

(b) Other nonmaterial instances of noncompliance should not be disclosed in the report on compliance but shall be reported in a separate communication to the board of directors, preferably in writing. All such communications shall be documented in the working papers.

(c) If the CPA has issued a separate letter detailing immaterial instances of noncompliance, the report on compliance shall be modified to include a statement such as "We noted certain immaterial instances of noncompliance that we have reported to the management of (borrower's name) in a separate letter dated March 2, 19X0."

§ 1773.33 Report on internal controls.

(a) The CPA shall prepare a written report on the borrower's internal control structure and the assessment of control risk made as part of the financial statement audit. The report shall include, as a minimum, the scope of the CPA's work in obtaining an understanding of the borrower's internal control structure and in assessing the control risk; a description of the borrower's significant internal controls or control structure including the controls established to ensure compliance with the laws, regulations, REA bulletins, and contracts that have a material impact on the financial statements; and a description of the reportable conditions noted, if any, including the identification of material weaknesses, identified as a result of the CPA's work in understanding and assessing the control risk. The report shall also disclose the status of known but uncorrected significant or material findings and recommendations from prior audits that affect the current audit objective. Illustrations of this report are shown in appendix A, exhibits 5 and 6 (Electric) and appendix B, exhibits 5 and 6 (Telephone) to this part.

§ 1773.34 Management letter.

In accordance with REA reporting requirements, the CPA shall prepare a management letter as specified in this subpart D. A suggested format for this letter is shown in appendix C to this part. Comments shall be based upon information obtained by the CPA in applying audit procedures set out in subpart E of this part. At a minimum, in the management letter, the CPA shall:

(a) *Examination procedures.* State that the examination procedures

specified in this part 1773 have been performed.

(b) *Special reports.* State whether any special report, summary of recommendations, or similar communications were furnished to the borrower's management during the course of the audit or during interim audit work and provide a description of the information furnished.

(c) *Accounting and records.* Comment on the adequacy and effectiveness of the borrower's accounting procedures, discuss the general condition of the records, and outline any recommendations for improvement. Include comments on the adequacy and fairness of the methods used in accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts. Where appropriate, comments shall be included on matters such as:

(1) Whether subsidiary plant records agree with the controlling general ledger plant accounts.

(2) Whether construction clearing accounts are cleared promptly of costs of completed construction to the proper classified plant accounts and whether depreciation was accrued on such completed construction from the dates completed plant was placed in service.

(3) Whether retirements of plant are currently and systematically recorded and properly priced.

(4) Whether all costs associated with retirements of plant are properly accounted for in the accumulated provision for depreciation accounts and comment on any unusual charges or credits to such accounts.

(5) Whether REA approval was not obtained for a sale requiring such approval, and whether receipts from sales of plant, material or scrap were not handled in conformance with REA requirements.

(d) *Materials control.* Comment on the adequacy of the control over materials and supplies. When appropriate, comment on discrepancies between physical inventory, perpetual inventory records, and the general ledger balance. The disclosure should identify the dollar amount of gross overages and gross shortages, as well as the net amount of the discrepancy; also the disclosure should indicate the disposition of any differences. Include recommendations for disposition of deferred amounts remaining on the books at the close of the audit for which a satisfactory method of disposition has not been determined.

(e) *Compliance with REA security instrument provisions.* State whether the following provisions of the REA security instrument have been complied with:

(1) *Electric.* (i) Provisions relating to the borrower's maintenance of insurance and application of insurance proceeds.

(ii) Provisions relating to where a borrower can keep its funds on deposit.

(iii) Provisions relating to the payment of salaries to directors or trustees.

(2) *Telephone.* (i) Provisions relating to the borrower's maintenance of insurance and application of insurance proceeds.

(ii) Provisions requiring written approval for a borrower to enter into any contract for the operation or maintenance of property, for the use of Mortgaged Property by others, or for services pertaining to toll traffic, operator assistance, extended scope or switching.

(iii) Provisions relating to where a borrower can keep its funds on deposit.

(iv) Provisions relating to the payment of salaries to directors or trustees.

(v) Provisions requiring a borrower to charge rates for telephone service that will yield revenues at least sufficient to enable the borrower to pay all taxes and expenses when due, make all interest and principal payments on notes as they come due, and achieve the TIER requirement specified in the security instrument.

(f) *Reports to REA.* State whether the information submitted to REA in the December 31 financial reports (REA Form 7 or Form 12 for Electric or REA Form 479 for Telephone) is in agreement with the borrower's records. Comment on any exceptions noted. If an amended report has been filed as of December 31, the comments shall relate to the amended report.

(g) *Service contracts.* If management and/or operations contracts are in effect between the borrower and affiliates or others, state whether payments have been made in accordance with the terms of the contracts. Also state whether the contracts have been approved by REA, unless previously addressed under § 1773.34(e)(2)(ii). If there are no contracts, a statement to this effect shall be included in the management letter.

(h) *Income tax status.* State which of the following income tax filing classifications apply to the borrower:

(1) "C" corporation filing, Form 1120;

(2) "S" corporation filing, Form 1120S; or

(3) Sec. 501(c)(12) corporation filing, Form 990.

(i) *Related party transactions.* State that all related party transactions, regardless of materiality, have been disclosed in the notes to the financial statements in a manner consistent with Statement of Financial Accounting Standards No. 57, Related Party Disclosures. If the examination did not disclose any related party transactions, so state.

(j) *Depreciation rates.* (1) Comment when the depreciation rates used in computing monthly accruals have not been accepted by REA or the regulatory body having jurisdiction over the borrower's depreciation rates.

(2) Provide information when proper accounting has not been carried out for original costs of plant removed and related salvage, and when the net result of these retirements is not properly reflected in the provision for depreciation accounts. Any unusual charges or credits should be fully disclosed.

(k) *Deferred debits and deferred credits.* Provide a detailed analysis of the totals reported as deferred debits and deferred credits, including but not limited to margin stabilization plans, revenue deferral plans, and expense deferrals. State whether REA approval has been obtained for each deferral.

(l) *Insurance certifications.* State whether the insurance certification filed by the borrower each year in accordance with 7 CFR part 1788 was accurate.

Subpart E—Audit Procedures and Documentation

§ 1773.35 Audit procedures.

This subpart E details audit procedures to be performed by the CPA during the examination of the REA borrower's financial statements. However, these procedures are not all-inclusive. In accordance with GAGAS, the CPA shall exercise judgement in determining whether additional or alternative auditing procedures are necessary to afford a reasonable basis for an opinion.

§ 1773.36 Planning and supervision.

In accordance with SAS No. 22, Planning and Supervision, and GAGAS:

(a) The CPA shall have or obtain a level of knowledge of the utility business that will enable the CPA to plan and perform the audit in accordance with GAGAS.

(b) In planning the audit the CPA shall consider the nature, extent, and timing of work to be performed and shall prepare a written audit program. This program should set forth in reasonable detail, the audit procedures that the CPA believes are necessary to accomplish the objectives of the audit.

(c) The CPA shall review work performed by assisting auditors to

determine whether it was adequately performed and that the results are consistent with the conclusions presented in the audit report, report on compliance, report on internal controls, and management letter.

(d) The CPA shall consider the audit requirements of all levels of the government and plan the audit so that it will fulfill the legal and regulatory needs of identified potential users, including REA.

(e) The CPA shall obtain an understanding of the possible financial statement effects of law, regulations, REA bulletins, and contracts that are generally recognized by auditors to have a direct and material effect on the determination of financial statement amounts. The CPA shall then assess the risk that errors and irregularities may cause the financial statements to contain material misstatements. Based upon that assessment, the CPA shall design the audit to provide reasonable assurance of detecting errors and irregularities that could have a material effect on financial statement amounts. When assessing the requirement for compliance testing, the CPA shall consider, among other laws and regulations, all regulations issued and codified by REA in 7 CFR parts 1700 through 1799 and by RTB in 7 CFR part 1610.

(f) The CPA shall obtain an understanding of the internal control structure that is sufficient to plan the audit and assess control risk for the assertions embodied in the financial statements. This includes knowledge about the design of internal control structure policies and procedures relevant to financial statement assertions affected by compliance with laws, regulations, REA bulletins, and contracts that have a direct and material effect on the determination of financial statement amounts and whether these policies and procedures have been placed in operation.

§ 1773.37 Audits performed by successor auditors.

The CPA shall obtain sufficient competent evidential matter to afford a reasonable basis for expressing an opinion on the comparative financial statements the CPA has been engaged to examine as well as on the consistency of the application of accounting principles in that year as compared with the preceding year and for issuing the report on compliance, report on internal controls, and management letter. When a change in auditors takes place, the CPA shall comply with the provisions of SAS No. 7, Communications Between Predecessor and Successor Auditors, and shall document such compliance in the working papers.

§ 1773.38 Audit procedures and documentation.

(a) *Internal control.* (1) The CPA shall study and evaluate the borrowers' internal control procedures as part of the examination of financial statements whether or not the CPA intends to rely on the borrower's internal controls. This study and evaluation shall be documented by an internal control questionnaire and/or narratives. Conclusions drawn as a result of this study and evaluation shall be noted in the working papers.

(2) The CPA is responsible for determining those areas in which internal control procedures are to be relied on. Where the CPA does not intend to rely on specific internal control procedures during the audit, a statement of this fact, and the reasons therefore, shall be included in the audit working papers. *However,* where the CPA intends to rely on specific internal controls during the audit the following additional documentation is required:

(i) The CPA shall document the borrower's procedures. The documentation shall indicate:

(A) The internal control procedures being followed;

(B) The flow of information from the initiation of the transaction through the posting of accounting records;

(C) Key accounting documents processed;

(D) The segregation of duties; and

(E) Authorization limits and approvals required for transactions processed. The narrative may be supported with copies of forms and related flow charts.

(ii) The CPA shall prepare working papers documenting the tests made to verify that the borrower's stated procedures were in fact being followed (i.e., tests of compliance) and indicating those aspects of internal control on which the CPA intends to rely for limiting tests of account balances.

(3) Where applicable, compliance with SAS No. 48, The Effects of Computer Processing on the Examination of Financial Statements, shall be documented.

(b) *Review of minutes and legal documents.*—(1) The working papers prepared by the CPA shall contain extracts from the minutes of the board of directors and the annual membership or stockholders' meeting. Copies or outlines resulting from a review of documents such as the articles of incorporation, bylaws, commission orders, security instruments and other loan documents, pension and retirement plans, labor agreements, and major contracts are to be a part of the working paper files.

(2) Compliance with transactions authorized in the minutes and with the legal documents noted above shall be tested by the CPA and documented in the working papers.

(c) *Working trial balance.* Amounts on the working trial balance must be readily traceable to audit working papers and to the summarized financial statements included in the audit report.

(d) *Utility plant and accumulated depreciation*—(1) *General.* Because of the large proportion of the plant value to total assets, the audit of these accounts shall include an examination of additions, replacements, retirements, and changes. Specifically, documentation prepared by the CPA shall show that:

(i) Direct labor and material transactions were examined in determining that the client's accounting records reflect a complete accumulation of costs.

(ii) Indirect costs and overhead charges were examined to determine if they conform to Uniform System of Accounts' requirements.

(iii) Costs of completed construction and retirements are cleared promptly from work in progress accounts to classified plant in service and related depreciation reserves.

(iv) Direct purchases of special equipment and general plant were examined.

(v) Tests were performed to determine the degree of accuracy and control of costing retirements, including tests of salvage and removal costs.

(vi) The borrower's work order procedures were documented and tested.

(vii) Depreciation rates were tested for adequate support, compared to REA guidelines and determined to be in compliance.

(2) *Construction work in progress.* (i) The working papers shall include a summary of open work orders reconciled to the general ledger. The CPA shall note on the summary unusual or nontypical projects.

(ii) For each annual audit, the CPA shall test a representative number of work orders and document such tests. It is recommended that, on a test basis, the CPA select at least one month's activity and verify all charges to the work orders by reviewing supporting records. These tests shall cover:

(A) *Equipment purchases.* Review equipment purchases charged to work orders, including payments and receiving reports.

(B) *Contract payments.* Review contracts showing scope of work, nature of contract, contract amount, and schedule of payments. Review supporting documents to determine that all services contracted for were in fact rendered.

(C) *Labor.* Select several employees who allocated their time to the work orders selected for testing. Review time cards and pay rates for these employees.

(D) *Material and Supplies.* Review the nature of material and supplies issued to the project and trace amounts and quantities to supporting documents. Review the reasonableness of clearing rates for assignment of stores expense to the work order.

(E) *Overheads.* Review the accuracy of the computation of overheads applied to the work order.

(F) *Other Charges.* Review other costs charged to the work order for support and propriety.

(iii) If construction was not performed by force account, the CPA shall select a representative number of completed contracts for review. Tests performed shall be documented in the working papers and shall include:

(A) Schedule payments to contractor and trace to verification of payment and supporting invoice.

(B) Trace contract costs to final closeout documents and to general ledger and continuing property records.

(C) Verify costs of owner furnished materials, if applicable.

(iv) The CPA shall review the borrower's procedures for unitization and classification of work order and contract costs. Tests performed shall be documented in the working papers and shall include:

(A) Tabulation of record units for construction from work orders staking sheets to tabulation of record units, to unitization sheets and to continuing property records.

(B) Procedures for unitizing and distributing costs of completed construction to plant accounts.

(C) Verification that standard costs are being used and test the basis for determining standard costs.

(D) Determination that costs of completed construction are cleared promptly from work in progress accounts.

(v) For a selected number of completed work orders and contracts tested, the CPA shall verify the physical existence of the plant constructed.

(3) *Continuing property records.* The CPA shall determine whether subsidiary plant records agree with the controlling general ledger plant accounts, note differences in the working papers and comment, in the management letter, on any discrepancies.

(4) *Retirement work-in-progress.* The CPA's working papers shall show that tests were made to determine that retirements of plant are currently and systematically recorded, priced on the basis of continuing property records, and that the costs of removal have been properly accounted for. If continuing property records have not been established, the CPA is required to explain the method used in computing costs of units of plant retired and state whether costs appear reasonable. The CPA is also required to test the accounting for net loss due to retirement and trace clearing entries to the depreciation reserve, the plant accounts and continuing property records.

(5) *Provision for accumulated depreciation.* The CPA's working papers shall include an analysis of transactions for the period documenting:

(i) A test of the depreciation accruals for the period, including the depreciation base.

(ii) The basis of the depreciation rates. Indicate any change in rates and the reason therefore and, if appropriate, approval by REA or the regulatory body having jurisdiction.

(iii) A test of salvage and removal costs.

(iv) A search for unrecorded retirements.

(6) *Other reserves.* The CPA's working papers shall include an account analysis and tests of transactions for all other material plant reserves, such as the reserve for the amortization of plant acquisition adjustments.

(7) *Narrative.* The CPA shall prepare and include in the working papers a comprehensive narrative on the scope of work done, observations made, and conclusions reached. Specific matters that are to be covered in this narrative include:

(i) The nature of construction and other additions.

(ii) The control over, and the accuracy of pricing retirements.

(iii) The accuracy of distributing costs to classified utility plant accounts.

(iv) An evaluation of the method of:

(A) Capitalizing the direct loadings on labor and material costs;

(B) Distributing transportation costs and other expense clearing accounts; and

(C) Capitalizing overhead costs.

(v) The tests of depreciation.

(vi) Review of agreements such as those relating to acquisitions, property sales, and leases which affect the plant accounts.

(vii) Notations, if applicable, of REA approval in connection with property sales and the propriety of the disposition of the proceeds.

(e) *Cash.* The CPA shall prepare working papers showing that the following audit procedures have been performed:

(1) Tests were performed to ascertain that all significant sources of cash receipts and disbursements are under effective accounting control.

(2) Receipt and disbursement activity was tested for a selected period based upon controls identified.

(3) Cash on hand and working funds were properly counted or confirmed.

(f) *Investments.* The CPA shall prepare working papers documenting that the following audit procedures have been performed:

(1) Ownership of investments was verified by inspection or confirmation, as appropriate, and that securities, if any, were properly safeguarded.

(2) Significant transactions (purchases and sales) were examined for proper authorization, approval, and supporting documentation and were accurately recorded in the accounting records.

(3) Tests were made of the related income, gain/loss and discount/premium accounts.

(g) *Receivables and Accumulated Provision for Uncollectible Notes and Accounts.* The CPA shall perform and document the audit procedures listed below:

(1) Reconcile the totals of the individual general ledger account balances with the supporting subsidiary detail.

(2) Confirm selected receivables and note in the working papers (i) the basis of selecting positive and negative confirmation requests and the extent of coverage in each case, and (ii) the results of the confirmation procedures and extent of follow-up on exceptions and nonresponses.

(3) Check thoroughly into any unreconciled differences resulting from requests for confirmation or between subsidiary records and control accounts.

(4) Test cash receipts and recording of revenues in connection with the collection of receivables from original source documents through the general ledger entry. (See § 1773.38(o)(3)).

(5) In testing the reserve for uncollectible notes and accounts, provide (i) a summary analysis of the transactions in the reserve accounts for the audit period; (ii) an evaluation of the adequacy of the accumulated provision for uncollectible notes and accounts; and (iii) evidence that write-offs were properly authorized.

(h) *Materials and supplies.* In connection with the inventory of

materials and supplies the CPA shall perform and document the audit procedures listed below:

(1) Review and comment on the adequacy of the borrower's inventory procedures. Test check the unit prices, computations, and footings on the inventory tabulations. If not present when the inventory was taken, physically count a representative number of items and test check them to the physical inventory records.

(2) Review transactions occurring between inventory count dates and the "as of" audit date.

(3) Ascertain that the perpetual inventory records and the ledger accounts were brought into agreement with the physical inventory and comment on all discrepancies (overages and shortages) between the physical inventory records and the general ledger balances.

(4) Test the borrower's procedures for handling material and supplies. Tests shall cover:

(i) Clerical accuracy of extensions on stock record cards.

(ii) Substantiation of the cost used in pricing.

(iii) Purchases and receipts for a selected period.

(iv) Issuances.

(v) Salvage entries and adjustments.

(5) Review inventory for obsolete items and note conclusions in working papers.

(i) *Other assets.* (1) Prepayments.

(i) *Insurance.* The CPA's working papers shall contain an analysis of transactions, together with evidence that:

(A) A representative number of transactions were reviewed for support.

(B) The method of amortization was tested.

(C) The insurance certification, as reported to REA, is in agreement with the insurance policies in force.

(2) *Deferred charges.* The CPA's working papers shall contain evidence that all expense deferrals comply with the requirements of Statement of Financial Accounting Standards No. 71, Accounting for the Effects of Certain Types of Regulation and have received REA approval.

(i) *Extraordinary retirement losses.* The CPA's working papers shall show the basis and history of this account, including any required approval by a regulatory commission with jurisdiction in the matter or REA in the absence of commission jurisdiction.

(ii) *Clearing accounts.* The CPA's working papers shall contain an analysis of clearing accounts and evidence that transactions were reviewed for proper allocation between expense and capital accounts.

(3) *Other current assets.* The CPA shall prepare working papers showing the results of a review of the nature and composition of each major account included in this category.

(j) *Capital and equity accounts*—(1) *Capital stock.* For privately owned companies, the workpapers shall include analyses of the stock transactions during the audit period and provide documentation showing that:

(i) Subsidiary records were tested and reconciled to the general ledger control account.

(ii) Authorization and issuances or redemptions of capital stock were properly approved by the board of directors, stockholders, and regulatory commissions.

(iii) Transactions were made in accordance with the appropriate provisions of the articles of incorporation, bylaws, and REA loan documents.

(iv) Transactions were recorded in accordance with the Uniform System of Accounts, as supplemented by REA.

(2) *Memberships.* For cooperative-type organizations, the working papers shall include an analysis of the membership transactions during the audit period, supported by evidence that:

(i) Subsidiary records were tested and reconciled to the general ledger control account.

(ii) Transactions were made in accordance with the appropriate provisions of the articles of incorporation, bylaws, and REA loan documents.

(3) *Patronage capital, retained earnings, margins, and other equities.* The working papers shall include an analysis of these and any related reserve accounts, together with evidence that the transactions were tested, supported by evidence that:

(i) The transactions were made in accordance with the appropriate provisions of the articles of incorporation, bylaws, REA loan documents, Uniform System of Accounts as supplemented by REA, or orders of regulatory commissions.

(ii) Payments were tested by tracing to underlying support.

(iii) A determination has been made whether, under the terms of the security instruments, restrictions of retained earnings or margins are required and, if so, whether they have been properly recorded.

(k) *Long-term debt.* The CPA shall perform the audit work noted below and provide documentation to evidence this work:

(1) Reconcile long-term debt resulting from REA loans, including accumulated deferred interest, if any, to the most recent statement received from REA. REA automatically mails confirmation schedules of long-term obligations (REA Forms 690, Confirmation Schedule Obligation to the FFB "as of", or 691, Confirmation Schedule—Long-term Obligation to REA "as of", or RTB Form 12, Confirmation Schedule) directly to the CPA selected by the borrower to perform the annual audit. A written request for a confirmation schedule form is not necessary. REA does not confirm current interest or accumulated interest accruing subsequent to the date of the latest "Statement of Loan Account and Transactions for Three-Month Period Ending ____" (REA Forms 696, Statement of Loan Account & Transaction for Three Months Ending, or 697, FFB Loan Account Statement & Transactions for Three Months Ending, or RTB Form 13, Statement of Loan Account & Transactions).

(2) Confirm other long-term debt directly with the lender.

(3) Examine notes executed or canceled during the audit period.

(4) Test accrued interest computations.

(l) *Current and accrued liabilities.* The audit working papers prepared by the CPA shall contain evidence that:

(1) Subsidiary records for each current or accrued liability account were reconciled to the appropriate general ledger control account and include evidence, on a test basis, that the details were traced to disbursement vouchers, invoices, and other supporting documentation. The CPA shall also consider direct confirmation with creditors.

(2) Withholdings were analyzed on a test basis and document the extent of the verification.

(3) Significant accruals (interest, taxes, etc.) for the period as a whole were analyzed, and indicate that the balance of the accrual was tested and material disbursements vouched.

(4) Cash disbursements subsequent to the audit date were reviewed to determine whether the items paid represented liabilities at the audit dates.

(5) A search was made for unrecorded liabilities and the results of this search.

(m) *Deferred credits and reserves.* The CPA shall document in the audit working papers, the nature and basis of deferred credits, miscellaneous credits, and miscellaneous reserves, together with the extent of the tests made in this area.

(n) *Representations.* (1) The CPA shall document work performed in reviewing

for contingencies. Acceptable evidence includes notes of discussions with the borrower's management and attorneys and an examination of the board minutes.

(2) A representation letter (SAS No. 19, Client Representations) shall be obtained from the borrower's management, and a representation letter as to contingent liabilities and litigation (SAS No. 12, Inquiry of a Client's Lawyer Concerning Litigations, Claims, and Assessments) shall be obtained from the borrower's attorney. Both letters shall be included in the audit working papers.

(o) *Revenues.* (1) The CPA's working papers shall contain an analysis of year-to-year changes in the revenue accounts, together with evidence of a review of significant variations in the current results as compared to the corresponding period in the previous year.

(2) The CPA's working papers shall contain evidence of a selected test of operating revenues from source documents through each step of the development of the revenue entry to the final postings in the general ledger. In connection with this test, there shall be evidence that the application of the approved rates, the mathematical accuracy of the billings, and the accounting classification were tested.

(3) Reconcile total revenue recorded for a test period to cash and receivables also recorded during the test period.

(4) The CPA shall determine whether all interest income is being properly accrued and accounted for and document tests performed.

(5) Document the amount of unbilled revenue at the audit date.

(p) *Expenses.* (1) The working papers in this area shall document the review and test of internal controls and related accounting procedures, particularly the controls and procedures used to ensure that expenses have been properly segregated as to operating and nonoperating expenses.

(2) The CPA's working papers shall contain a comparative analysis of expense accounts supported by evidence that:

(i) All unusual fluctuations were satisfactorily explained.

(ii) An analysis was made of selected accounts to assure proper classification and support for the charges.

(3) Procedures for paying and distributing the costs of payroll for a selected period shall be tested. Documentation of payrolls selected for detail testing shall be prepared by the CPA to show:

(i) The extent of mathematical tests and review of supporting documents for pay rates and withholdings.

(ii) A review of the borrower's procedures in distributing payroll costs to capital and expense accounts.

(q) *Related party transactions.* The CPA shall document compliance with SAS No. 45, Omnibus Statement on Auditing Standards—1983 (Related Parties). Supporting workpapers shall detail procedures applied and conclusions reached.

(r) *Subsequent Events.* In accordance with SAS No. 1, section 560, Subsequent Events, CPAs are responsible for collecting evidential matter pertaining to events between the audit date and the report date (normally the last day of field work). Documentation shall detail (1) procedures used to identify subsequent events, and (2) the effect of subsequent events on financial statements.

§ 1773.39 [Reserved]

Subpart F—Tests for Compliance—Electric

§ 1773.40 Review procedures.

(a) This subpart F details the steps and procedures to be performed by CPAs of electric borrowers during the review for compliance with applicable laws, regulations, REA bulletins, and contracts when the CPA determines that a violation of 7 CFR 1711.1 and the resulting reclassification of a long-term liability to a short-term liability will have a material impact on the financial statements. These procedures are designed to assure that:

(1) Loan funds are advanced only for projects that are included in an REA-approved construction workplan or amendments thereto and in an approved loan and that total advances do not exceed the amount approved for advance for the project;

(2) Projects approved as minor construction (those for which the total cost of construction is $25,000 or less) are not included in an REA-approved workplan; and

(3) Loan funds advanced to reimburse actual costs of construction do not exceed 130 percent of the projected cost estimate submitted on an approved REA Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, as amended;

(b) The procedures detailed in § 1773.40 are to be considered minimum requirements and may be expanded during the course of the review by the CPA. They may not, however, be reduced or eliminated.

(c) When reporting items of noncompliance in accordance with the audit procedures set forth in § 1773.41, all items that, either individually or in the aggregate, equal or exceed $1,000 must be reported on the Schedule of Unapproved Advances. Compliance exceptions of less than $1,000 shall be documented in the audit working papers.

(d) Reporting items of noncompliance. The CPA shall prepare and submit to the borrower for submission to REA, the report on compliance and the following schedule of noncompliance:

(1) *Schedule of Unapproved Advances.* When compliance testing indicates that advances have been made in violation of 7 CFR 1711.1, the CPA shall prepare a Schedule of Unapproved Advances as shown in appendix D, exhibit 1 to this part. The borrower is responsible for returning to REA the amount of the improper advance of loan funds from REA together with any accrued and unpaid interest and an additional amount equal to the interest on the funds improperly advanced for the period such funds were outstanding calculated in accordance with 7 CFR 1711.1.

§ 1773.41 Advance of funds.

The CPA shall establish materiality levels for auditing advance of funds in a manner consistent with auditing procedures established for other audit segments. Having established these materiality levels, the CPA shall report all items of noncompliance as required in § 1773.40(c). The CPA shall perform the following review steps and procedures:

(a) Thoroughly review the provisions of Electric Operations Manual No. 4, Guidelines for the Implementation of 7 CFR 1711.1.

(b) Obtain or prepare schedules listing financial documents (REA Form 219, Contracts, Special Equipment Summaries, etc.) which support advances and disbursements of loan funds during the audit period, and cumulative amounts for the loan by loan application code.

(c) Verify that totals approved for advance, advanced, and disbursed for each sub-code or line item relating to site specific codes, do not exceed 130 percent of the estimated costs in the applicable REA Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, unless they are supported by properly executed and approved workplan amendments.

(d) Verify that the cumulative totals approved for advance, advanced, and disbursed for each general purpose code

(in total for each code but not including reimbursements listed under code 700) do not exceed 130 percent of the estimated costs in the applicable REA Form 740c unless they are supported by properly executed and approved workplan amendments.

(e) Select a sample of construction work orders, contracts, and special equipment summaries financed under codes 100, 600, and 700 and perform the following tests:

(1) For code 100, examine the description and loan application codes on the work order log and staking sheets to determine that construction was for new lines to serve consumers.

(2) For codes 600 and 700, review the documentation supporting the disbursement of loan funds to determine that the items are properly classified.

(3) For codes 600, 700, and 1100, review the initial entries to the subsidiary records to ensure that the proper cut off dates were used.

(4) Compare the actual costs to the amounts approved for advance, advanced, and disbursed to ensure that such amounts are properly supported.

(f) Select a sample of individual projects (sub-codes) for site specific codes. Compare the descriptions and loan application codes on the completed documents (work orders, contracts, etc.) with the descriptions and loan application codes on the work order log, staking sheets, applicable REA Form 740c, and the two-year workplan as amended. They should agree.

(g) For the sample selected in paragraph (e) of this section, compare the actual costs to the amounts approved for advance, advanced, and disbursed to ensure that such amounts are properly supported.

Note: Actual costs in excess of 130 percent of the estimated costs in the applicable REA Form 740c are not financeable unless a workplan amendment has been executed.

(h) If the cost of any project selected under paragraph (e) of this section is over $25,000 and is not disclosed in the approved workplan, review the supporting amendment(s) to the approved workplan for amounts and signatures.

(i) Select a sample of minor construction work orders (those for which the total cost of construction is $25,000 or less and not included on the approved workplan) and verify that they are not listed on the approved workplan.

(j) Prepare a Schedule of Unapproved Advances (See appendix D, exhibit 1 to this part), listing the amounts of advances (REA and supplemental lender) deemed to be improper relative to 7 CFR 1711.1 and related information required to compute costs incurred by the Rural Electric and Telephone Revolving Fund as a result of the overadvance(s).

(k) Advise the borrower of the improper advances, provide a copy of the Schedule of Unapproved Advances, and apprise them of the action necessary to eliminate the improper advances.

(l) Notify the appropriate Area Accounting Branch, by telephone, of the amount of the improper advance(s), the reason for the improper advance(s), and the dates that the improper advance(s) were made. Confirm the amount, in writing, with the appropriate Area Accounting Branch within 15 days of verbal notification. Indicate, in the workpapers, the date on which the appropriate Area Accounting Branch was provided with this information.

Note: The tests in the advance of funds segment of the review also apply to generation and transmission insured loans.

§§ 1773.42-1773.49 [Reserved]

Appendix A—Sample Audit Report for an Electric Cooperative

This appendix A includes an example of an audit report, report on compliance, report on internal controls, financial statements and accompanying notes for an electric distribution cooperative. The sample audit report is intended as a guide only and, while it is recommended that the format be followed, each audit report should be prepared to adequately cover the circumstances. To the extent possible, it should be used as a guide in preparing audit reports for other types of electric borrowers. For power supply borrowers and for distribution borrowers with production or transmission plant, the same general format should be followed. However, the Statement of Revenue and Patronage Capital must be expanded to show separate totals for operation expenses and maintenance expenses for each class of production plant and for transmission plant.

Appendix A—Sample Audit Report for an Electric Cooperative

Exhibit 1—Sample Auditor's Report

Certified Public Accountants; 1600 Main Street, City, State 24105.

The Board of Directors
Center County Electric Cooperative:

Independent Auditor's Report

We have audited the accompanying balance sheets of Center County Electric Cooperative as of December 31, 19X9 and 19X8, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of the cooperative's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center County Electric Cooperative as of December 31, 19X9 and 19X8, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

Certified Public Accountants

March 2, 19X0

Exhibit 2—Sample Report on Compliance when, Based on Assessments of Materiality and Audit Risk, the CPA Concluded it was not Necessary to Perform Tests of Compliance with Laws and Regulations

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and the Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Complaince with laws, regulations, contracts, and grants applicable to Center County Electric Cooperative is the responsibility of Center County Electric Cooperative's management. As part of our audit, we assessed the risk that noncompliance with certain provisions of laws, regulations, contracts, and grants could cause the financial statements to be materially misstated. We concluded that the risk of such material misstatement was sufficiently low that it was not necessary to perform tests of Center County Electric Cooperative's compliance with such provisions of laws, regulations, contracts, and grants.

However, in connection with our audit, nothing came to our attention that caused us to believe that Center County Electric Cooperative had not complied, in all material respects, with the laws, regulations, contracts, and grants referred to in the preceding paragraph.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not

intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

March 2, 19X0

Exhibit 3—Sample Report on Compliance when, Based on Assessments of Materiality and Audit Risk, the CPA Performed Compliance Testing and Found No Material Instances of Noncompliance

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and the Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Complaince with laws, regulations, contracts, and grants applicable to Center County Electric Cooperative is the responsibility of Center County Electric Cooperative's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of Center County Electric Cooperative's compliance with laws, regulations, contracts, and grants. However, our objective was not to provide an opinion on overall compliance with such provisions.

The results of our tests indicate that, with respect to the items tested, Center County Electric Cooperative complied, in all material respects, with the provisions referred to in the preceding paragraph. With respect to items not tested, nothing came to our attention that caused us to believe that Center County Electric Cooperative had not complied, in all material respects, with those provisions.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

March 2, 19X0

Exhibit 4—Sample Report on Compliance when, Based on Assessments of Materiality and Audit Risk, the CPA Performed Compliance Testing and Found Material Instances of Noncompliance

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and the Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws, regulations, contracts, and grants applicable to Center County Electric Cooperative is the responsibility of Center County Electric Cooperative's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of Center County Electric Cooperative's compliance with laws, regulations, contracts, and grants. However, our objective was not to provide an opinion on overall compliance with such provisions.

Material instances of noncompliance are failures to follow requirements or violations of prohibitions, contained in statutes, regulations, contracts, or grants that cause us to conclude that the aggregation of the misstatements resulting from those failures or violations is material to the financial statements. The results of our tests of compliance disclosed the following material instances of noncompliance, the effects of which have been corrected in Center County Electric Cooperative's 19X9 and 19X8 financial statements.

(Include paragraphs describing the material instances of noncompliance noted.)

We considered these material instances of noncompliance in forming our opinion on whether Center County Electric Cooperative's 19X9 and 19X8 financial statements are presented fairly, in all material respects, in conformity with generally accepted accounting principles, and this report does not affect our report dated March 2, 19X0 on those financial statements.

Except as described above, the results of our tests of compliance indicate that, with respect to the items tested, Center County Electric Cooperative complied, in all material respects, with the provisions referred to in the third paragraph of this report, and with respect to items not tested, nothing came to our attention that caused us to believe that Center County Electric Cooperative had not complied, in all material respects, with those provisions.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

March 2, 19X0

Exhibit 5—Sample Report on Internal Controls When Reportable Conditions Were Found

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Electric Cooperative for the years ended December 31, 19X9 and 19X8, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control structure.

The management of Center County Electric Cooperative is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this report, we have classified the significant internal control structure policies and procedures in the following categories (identify internal control structure categories).

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

We noted certain matters involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

(Include paragraphs to describe the reportable conditions noted.)

A material weakness is a reportable condition in which the design or operation of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and may not be detected within a timely period by employees in the normal course of performing their assigned functions.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined above. However, we believe none of the reportable conditions described above is material weakness.

We also noted other matters involving the internal control structure and its operation that we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 19X0.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

Exhibit 6—Sample Report on Internal Controls When No Reportable Conditions Were Found

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Electric Cooperative for the years ended December 31, 19X9 and 19X8, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control structure.

The management of Center County Electric Cooperative is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this report, we have classified the significant internal control structure policies and procedures in the following categories (identify internal control structure categories).

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

However, we noted certain matters involving the internal control structure and its operation that we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 19X0.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

Exhibit 7—Sample Financial Statements

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 ASSETS (NOTES 1 AND 2)

	19X9	19X8
Electric Plant: (Note 3)		
In service—at cost	$9,524,646	$9,365,264
Construction work in progress	407,943	317,166
	9,932,589	9,682,430
Less: Accumulated provisions for depreciation	3,117,629	2,917,295
	6,814,960	6,765,135
Other Assets and Investments:		
Nonutility property	20,227	20,227
Investments in associated organizations (Note 4)	391,258	292,798
	411,485	313,025
Current Assets:		
Cash—general funds	37,350	51,544
Cash—construction funds	10,034	20,193
Accounts receivable (less accumulated provision for uncollectible accounts of $2,207 in 19X9 and $1,933 in 19X8)	36,527	35,255
Materials and supplies (at average cost)	83,652	80,882
Other current and accrued assets	8,613	8,692
	176,176	196,566
Deferred Charges (Note 5):	5,666	1,762
	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 EQUITIES AND LIABILITIES (NOTE 1)

	19X9	19X8
Equities:		
Memberships	$60,145	$59,440
Patronage capital (Note 6)	1,761,798	1,526,833
Other equities (Note 7)	53,647	35,900
	1,875,590	1,622,173
Long-Term Debt:		
REA mortgage notes less current maturities (Note 8)	5,249,115	5,396,385
Current Liabilities:		
Current maturities of long-term debt	145,000	140,000
Accounts payable—purchased power	48,916	52,117
Accounts payable—other	21,859	6,556
Consumer deposits	32,660	33,085
Accrued taxes	10,958	9,146
Other current and accrued liabilities	12,285	6,461
	271,678	247,365
Deferred Credits (Note 10):	11,904	10,565
	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF REVENUE AND PATRONAGE CAPITAL FOR THE YEARS ENDED DECEMBER 31

	19X9	19X8
Operating Revenues:	$1,719,467	$1,605,690
Operating Expenses:		
Cost of power	587,729	625,411
Distribution—operation	111,058	121,682
Distribution—maintenance	158,622	182,740
Consumer accounts	76,675	72,927
Sales	38,378	40,755
Administrative and general	94,682	87,058
Depreciation and amortization	288,389	279,776
Taxes	34,920	34,438
	1,390,453	1,444,787
Operating Margins Before Fixed Charges	329,014	160,903
Fixed Charges:		
Interest on long-term debt	113,713	115,082
Operating Margins After Fixed Charges	215,301	45,821
G&T and Other Capital Credits	14,460	17,500
Net Operating Margins	229,761	63,321
Nonoperating Margins:		
Interest Income	24,289	18,802
Other Nonoperating Income	1,200	1,200
	25,489	20,002
Net Margins	255,250	83,323
Patronage Capital—Beginning of Year	1,526,833	1,469,125
	1,782,083	1,552,448
Retirement of Capital Credits	20,285	25,615
Patronage Capital—End of Year	$1,761,798	$1,526,833

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
Cash Flows From Operating Activities:		
Cash received from consumers	$1,721,496	$1,609,933
Cash paid to suppliers and employees	(1,049,139)	(1,126,367)
Interest received	24,289	18,802
Interest paid	(114,131)	(115,607)
Taxes paid	(33,108)	(32,132)
Net cash provided by operating activities	549,407	354,629
Cash Flows From Investing Activities:		
Construction and acquisition of plant	(322,234)	(216,427)
Plant removal costs	(25,994)	(19,268)
Materials salvaged from retirements	10,014	7,327
(Increase)/decrease in:		
Materials inventory	(2,770)	1,916
Deferred charges—preliminary survey and investigation	(3,486)	(2,617)
Investments—CFC capital term certificates	(82,472)	(69,412)
Inventory adjustment—deferred credit decrease	(2,290)	(1,057)
Net cash used in investing activities	(429,232)	(299,538)
Cash Flows From Financing Activities:		
Retirements of patronage capital credits	(20,285)	(25,615)
Retired capital credits—gain	1,200	1,200
Donated capital	16,547	6,178
REA loan advances	174,976	197,450
Payments on REA debt	(317,246)	(279,575)
Increase/(decrease) in:		
Consumer deposits	(425)	575
Memberships issued	705	450
Net cash used in financing activities	(144,528)	(99,337)
Net increase/(decrease) in cash	(24,353)	(44,246)
Cash—beginning of year	71,737	115,983
Cash—end of year	47,384	71,737

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

[Reconciliation of Net Margins to Net Cash Provided by Operating Activities]

	19X9	19X8
Net margins	$255,250	$83,323
Adjustments to reconcile net margins to net cash provided by operating activities:		
Depreciation and amortization	288,389	279,776
G&T and other capital credits (non-cash)	(14,460)	(17,500)
Patronage capital credits—NRUCFC (non-cash)	(1,528)	(1,200)
Provision for uncollectible accounts receivable	(526)	274
(Increase)/decrease in:		
Customer and other accounts receivable	(1,546)	2,523
Current and accrued assets—other	79	112
Increase/(decrease) in:		
Accounts payable	12,102	5,117
Accrued taxes	1,812	2,306
Deferred energy prepayments	3,629	2,246
Current and accrued liabilities—other	5,824	(1,023)
Deferred interest expense	(418)	(525)
Total adjustments	294,157	271,306
Net cash provided by operating activities	549,407	354,629

The accompanying notes are an integral part of these statements.

Center County Electric Cooperative Notes to Financial Statements December 31, 19X9 and December 31, 19X8

1. Summary of Significant Accounting Policies:

Present a description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, Disclosure of Accounting Policies.

Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flow, and results of operations.

Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.

2. Assets Pledged:

Substantially all assets are pledged as security for long-term debt to REA.

3. Electric Plant and Depreciation Rates and Procedures:

Listed below are the major classes of the electric plant as of December 31, 19X9, and 19X8:

	19X9	19X8
Intangible plant	$2,194	$2,194
Distribution plant	9,011,036	8,873,957
General plant	511,416	489,113
Electric plant in service	9,524,646	9,365,264

	19X9	19X8
Construction work in progress	407,943	317,166
	9,932,589	9,682,430

Provision had been made for depreciation of distribution plant at a straight-line composite rate of 2.86 percent per annum.

General Plant depreciation rates have been applied on a straight-line basis and are as follows:

Structures and Improvement	2.5%
Office Furniture	6.0%
Transportation Equipment	14.0%
Power Operated Equipment	12.0%
Other General Plant	4.0%
Communications Equipment	6.0%

4. Investments in Associated Organizations:

Investments in associated organizations consisted of the following at December 31, 19X9, and 19X8:

	19X9	19X8
Capital term certificates of the National Rural Utilities Cooperative Finance Corporation (NRUCFC)	$385,193	$288,261
NRUCFC patronage capital credits	5,065	3,537
Other	1,000	1,000
	391,258	292,798

5. Deferred Charges:

Following is a summary of amounts recorded as deferred charges as of December 31, 19X9, and 19X8:

	19X9	19X8
Preliminary surveys 19X0—X1 work plan	$5,666	$1,762

6. Patronage Capital:

At December 31, 19X9, and 19X8, patronage capital consisted of:

	19X9	19X8
Assignable	$255,250	$83,323
Assigned to Date	1,952,448	1,869,125
	2,207,698	1,952,448
Less: Retirements to Date	445,900	425,615
	1,761,798	1,526,833

Under the provisions of the Mortgage Agreement, until the equities and margins equal or exceed forty percent of the total assets of the cooperative, the return to patrons of capital contributed by them is limited generally to twenty-five percent of the patronage capital or margins received by the cooperative in the prior calendar year. The equities and margins of the cooperative represent 25.3 percent of the total assets at balance sheet date. Capital credit retirements in the amount of $20,285 were paid in 19X9.

7. Other Equities:

At December 31, 19X9, and 19X8, other equities consisted of:

	19X9	19X8
Retired capital credits—gain	$36,190	$34,990
Donated capital	17,457	910
	53,647	35,900

8. Mortage Notes—REA:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt as of December 31, 19X9, and 19X8:

	19X9	19X8
2% Notes due March 31, 19X9	$1,057,155	$1,098,700
2% Notes due December 31, 1996	2,485,927	2,502,370
5% Notes due December 31, 1996	1,851,033	1,935,315
Less: current maturities	(145,000)	(140,000)
	5,249,115	5,396,385

Unadvanced loan funds of $285,600 are available to the cooperative on loan commitments from REA.

Principal and interest installments on the above notes are due quarterly in equal amounts of $99,600. As of December 31, 19X9, annual maturities of long-term debt outstanding for the next five years are as follows:

19X0	$145,000
19X1	$150,000
19X2	$151,500
19X3	$154,000
19X4	$155,000

Advance payments of $252,300 may be applied to the installments.

9. Pension Plan:

Substantially all of the employees of the Cooperative are covered by the ABC Retirement and Security Program, a defined benefit multiemployer plan. Pension expense for the years ended 19X9 and 19X8 was $22,400.00 and $20,400.00, respectively.

10. Deferred Credits:

Following is a summary of the amounts recorded as deferred credits as of December 31, 19X9 and 19X8:

	19X9	19X8
Customer energy payments	$6,694	$3,065
Inventory adjustment	5,210	7,500
	11,904	10,565

11. Litigation:

The cooperative is defendant in an action in which the plaintiff claims damages totaling $200,000 for personal injuries sustained. The action has been dismissed by the District Court, but is on appeal before the State Supreme Court. Management is of the opinion that no liability will be incurred by the cooperative as a result of this action.

12. Commitments:

Under its wholesale power agreement, the cooperative is committed to purchase its electric power and energy requirements from Central Power Cooperative, Inc., until December 31, 19XX. The rates paid for such purchases are subject to review annually.

Appendix B—Sample Audit Report for a Class A or B Commercial Telephone Company

This appendix B includes an example of a short-form audit report, report on compliance, report on internal controls, financial statements and accompanying notes for a commercial telephone company. The sample audit report is intended as a guide only and, while it is recommended that the format be followed, each audit report should be prepared to adequately cover the circumstances. To the extent possible, it should be used as a guide in preparing audit reports for other types of telephone borrowers.

Appendix B—Sample Audit Report for a Class A or B Commercial Telephone Company

Exhibit 1—Sample Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center Telephone Company

Independent Auditor's Report

We have audited the accompanying balance sheets of Center Telephone Company as of December 31, 19X9 and 19X8, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of the cooperative's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center Telephone Company as of December 31, 19X9 and 19X8, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

Certified Public Accountants

Exhibit 2—Sample Report on Compliance When, Based on Assessments of Materiality and Audit Risk, the CPA Concluded it was not Necessary to Perform Tests of Compliance with Laws and Regulations

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center Telephone Company:

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and the Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws, regulations, contracts, and grants applicable to Center Telephone Company is the responsibility of Center Telephone Company's management. As part of our audit, we assessed the risk that noncompliance with certain provisions of laws, regulations, contracts, and grants could cause the financial statements to be materially misstated. We concluded that the risk of such material misstatement was sufficiently low that it was not necessary to perform tests of Center Telephone Company's compliance with such provisions of laws, regulations, contracts, and grants.

However, in connection with our audit, nothing came to our attention that caused us to believe that Center Telephone Company had not complied, in all material respects, with the laws, regulations, contracts and grants referred to in the preceding paragraph.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

March 2, 19X0

Exhibit 3—Sample Report on Compliance When, Based on Assessments of Materiality and Audit Risk, the CPA Performed Compliance Testing and Found no Material Instances of Noncompliance

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center Telephone Company:

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and the Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws, regulations, contracts, and grants applicable to Center Telephone Company is the responsibility of Center Telephone Company's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of Center Telephone Company's compliance with laws, regulations, contracts, and grants. However, our objective was not to provide an opinion on overall compliance with such provisions.

The results of our tests indicate that, with respect to the items tested, Center Telephone Company complied, in all material respects, with the provisions referred to in the preceding paragraph. With respect to items not tested, nothing came to our attention that caused us to believe that Center Telephone Company had not complied, in all material respects, with those provisions.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

March 2, 19X0

Exhibit 4—Sample Report on Compliance When, Based on Assessments of Materiality and Audit Risk, The CPA Performed Compliance Testing and Found Material Instances of Noncompliance

Certified Public Accountants, 1600 Main Street, City, State 24015.

The Board of Directors
Center Telephone Company:

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and the Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws, regulations, contracts, and grants applicable to Center Telephone Company is the responsibility of Center Telephone Company's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of Center Telephone Company's compliance with laws, regulations, contracts, and grants. However, our objective was not to provide an opinion on overall compliance with such provisions.

Material instances of noncompliance are failures to follow requirements or violations of prohibitions, contained in statutes, regulations, contracts, or grants that cause us to conclude that the aggregation of the misstatements resulting from those failures or violations is material to the financial statements. The results of our tests of compliance disclosed the following material instances of noncompliance, the effects of which have been corrected in Center Telephone Company's 19X9 and 19X8 financial statements.

(Include paragraphs describing the material instances of noncompliance noted.)

We considered these material instances of noncompliance in forming our opinion on whether Center Telephone Company's 19X9 and 19X8 financial statements are presented fairly, in all material respects, in conformity with generally accepted accounting principles, and this report does not affect our report dated March 2, 19X0 on those financial statements.

Except as described above, the results of our tests of compliance indicate that, with respect to the items tested Center Telephone Company complied, in all material respects, with the provisions referred to in the third paragraph of this report, and with respect to items not tested, nothing came to our attention that caused us to believe that Center Telephone Company had not complied, in all material respects, with those provisions.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

March 2, 19X0

Exhibit 5—Sample Report on Internal Controls When Reportable Conditions Were Found

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center Telephone Company:

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center Telephone Company for the years ended December 31, 19X9 and 19X8, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control structure.

The management of Center Telephone Company is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this report, we have classified the significant internal control structure policies and procedures in the following categories (identify internal control structure categories).

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

We noted certain matters involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

(Include paragraphs to describe the reportable conditions noted.)

A material weakness is a reportable condition in which the design or operation of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and may not be detected within a timely period by employees in the normal course of performing their assigned functions.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined above. However, we believe none of the reportable conditions described above is believed to be a material weakness.

We also noted other matters involving the internal control structure and its operation that we have reported to the management of Center Telephone Company in a separate letter dated March 2, 19X0.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

Exhibit 6—Sample Report on Internal Controls When No Reportable Conditions Were Found

Certified Public Accountants, 1600 Main Street, City, State 24105.

The Board of Directors
Center Telephone Company:

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center Telephone Company for the years ended December 31, 19X9 and 19X8, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control structure.

The management of Center Telephone Company is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this report, we have classified the significant internal control structure policies and procedures in the following categories (identify internal control structure categories).

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

However, we noted certain matters involving the internal control structure and its operation that we have reported to the management of Center Telephone Company in a separate letter dated March 2, 19X0.

This report is intended for the information of the audit committee, management, and the Rural Electrification Administration and supplemental lenders. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Certified Public Accountants

Exhibit 7—Sample Financial Statements

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 ASSETS (NOTES 1 AND 2)

	19X9	19X8
Current Assets:		
Cash—construction funds	21,000	18,000
Cash—general funds	128,300	140,083
Telecommunications accounts receivable (less accumulated provision of $11,597 in 19X9 and $1,490 in 19X8)	139,642	122,623
Notes receivable	2,500	3,000
Materials and supplies	103,713	73,964
Prepayments (Note 3)	49,185	62,201

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 ASSETS (NOTES 1 AND 2)—Continued

	19X9	19X8
Other current assets	1,357	10,131
	445,697	430,002
Noncurrent Assets:		
Nonregulated investments: (Note 4)		
Net CATV plant	413,511	407,086
Net nonregulated customer premises equipment	103,618	0
Deferred maintenance and retirements (Note 5)	40,000	45,000
	557,129	452,086
Property, Plant, and Equipment: (Note 6)		
Telecommunications plant in service	$7,401,300	$6,650,553
Telecommunications plant under construction	67,626	199,092
Telecommunications plant adjustment (Note 7)	176,380	176,380
	7,645,306	7,026,025
Less: accumulated provision for depreciation	1,760,587	1,504,255
	5,884,719	5,521,770
	$6,887,545	$6,403,858

The accompanying notes are in integral part of these statements.

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 LIABILITIES AND EQUITIES

	19X9	19X8
Current Liabilities:		
Accounts payable	123,689	290,484
Notes payable	61,600	70,400
Advance billings and payments	2,137	2,243
Customers deposits	11,878	4,940
Current maturities of long-term debt (Note 8)	146,646	145,998
Accrued taxes	242,076	224,566
Other current liabilities	8,500	9,079
	596,526	747,710
Long-Term Debt:		
REA mortgage notes (Note 8)	4,592,658	4,128,106
Other Liabilities and Deferred Credits:		
Unamortized investment tax credits (Note 10)	53,078	61,377
Deferred income taxes (Note 11)	37,137	35,039
	90,215	96,416
Stockholders' Equity		
Capital stock—common $2 par value—300,000 shares authorized; 102,600 shares outstanding 19X9 and 19X8	205,200	205,200
Addition paid-in capital	820,800	820,800
Retained earnings (Note 8)	582,146	405,626
	1,608,146	1,431,626
	$6,887,545	$6,403,858

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE COMPANY STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31

	19X9	19X8
Operating Revenues:		
Basic local network services	$836,822	$882,205
Network access services	125,042	0
Long distance network services	897,300	775,073
Miscellaneous	144,435	147,100
Less: uncollectible revenues	(24,000)	(24,500)
	1,979,599	1,759,878

CENTER TELEPHONE COMPANY STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31—Continued

	19X9	19X8
Operating Expenses:		
Plant specific operations	564,486	480,509
Plant nonspecific operations	187,162	393,143
Depreciation and amortization	274,691	
Customer operations	94,473	78,772
Corporate operations	157,453	134,127
	1,278,265	1,086,551
Operating Taxes:		
Federal and state income taxes—operating (Notes 10 and 11)	159,845	170,687
Other operating taxes	225,013	204,230
Provision for deferred taxes (Note 10)	31,566	29,468
Investment credits—net	6,201	1,640
	422,625	406,025
Operating Income:	278,709	267,302
Fixed Charges:		
Interest on long-term debt	88,432	85,854
Interest charged to construction—credit	(2,251)	(1,516)
	86,181	84,338
Nonregulated Income—NET (Note 4)	19,902	10,593
Net Income for Period	212,430	193,557
Retained Earnings—January 1, 19X9 and 19X8	405,626	235,153
Dividends declared	(35,910)	(23,084)
Retained Earnings—December 31, 19X9 and 19X8	$582,146	$405,626
Earnings per share of common stock—average	$2.07	$1.89

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELEPHONE COMPANY STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
Cash Flows From Operating Activities:		
Cash Received from Consumers	$1,962,580	$1,733,289
Cash Paid to Suppliers and Employees	(1,159,158)	(960,459)
Interest Paid	(86,181)	(84,338)
Taxes Paid	(401,316)	(376,643)
Net Cash Provided by Operating Activities	$315,925	$311,849
Cash Flows From Investing Activities:		
Construction and Acquisition of Plant	(619,281)	(507,617)
Investment in CATV Plant	(6,425)	(18,246)
Investment in Nonregulated CPE	(103,618)	
Plant Removal Costs	(18,359)	(27,216)
(Increase)/Decrease In:		
Materials Inventory	(29,749)	(19,478)
Notes Receivable	500	1,000
Deferred Maintenance and Retirements	5,000	(45,000)
Nonregulated Income	19,902	10,593
Net Cash Used in Investing Activities	(752,030)	(605,964)
Cash Flows From Financing Activities:		
Dividends Paid	(35,910)	(23,084)
Debt Proceeds	465,200	386,000
Payments on Short-term Debt	(8,800)	(7,500)
Increase/(Decrease) In:		
Consumer Deposits and Advance Payments	6,832	4,200
Net Cash Provided by Financing Activities	427,322	359,616
Net Increase/(Decrease) in Cash	$(8,783)	$65,501
Cash—Beginning of Year	158,083	92,582
Cash—End of Year	$149,300	$158,083

CENTER COUNTY TELEPHONE COMPANY STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

[RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES]

	19X9	19X8
Net Margins	$212,430	$193,557
Less: Nonregulated Income	(19,902)	(10,593)
Net Income from Regulated Operations	192,528	182,964
Adjustments to Reconcile Net Margins to the Net Cash Provided by Operating Activities:		
Depreciation and Amortization	274,691	253,509
Provision for Uncollectible Accounts Receivable	10,107	(3,610)
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(27,126)	(22,979)
Current and Accrued Assets—Other	8,774	5,119
Prepaid Taxes	10,000	(10,000)
Other Prepaid Expenses	3,016	(5,426)
Increase/(Decrease) In:		
Accounts Payable	(166,795)	(126,472)
Accrued Taxes	17,510	37,742
Accrued Pension Costs	500	933
Other Current Liabilities	(579)	(638)
Deferred Credits	(6,201)	1,640
Total Adjustments	$123,397	$128,885
Net Cash Provided by Operating Activities	$315,925	$311,849

The accompanying notes are an integral part of these statements.

Center Telephone Company Notes to Financial Statements December 31, 19X9 and December 31, 19X8

1. Summary of Significant Accounting Policies:

Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, *Disclosure of Accounting Policies.*

Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flows, and results of operations.

Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.

2. Assets Pledged:

Substantially all assets are pledged as security for the long-term debt to REA.

3. Prepaid Expenses:

Following is a summary of the amounts recorded as prepaid items as of December 31, 19X9 and 19X8:

	19X9	19X8
Prepaid taxes	$10,000	$20,000
Prepaid insurance	3,000	3,000
Prepaid rent	36,185	39,201
	$49,185	$62,201

4. Nonregulated Investments:

	19X9	19X8
CATV plant in service	$430,440	$420,940
CATV plant under construction	9,051	6,500
Total CATV plant	439,491	427,440
Less accumulated depreciation	25,980	20,354
Net CATV plant	413,511	407,086

CATV plant in service and under construction is stated at cost. The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life. The offering of CATV services does not involve the joint or shared use of assets in the provision of regulated and nonregulated services.

	19X9	19X8
Nonregulated customer premises equipment—leased	$109,699	0
Less: Accumulated Provisions for Depreciation	6,081	0
	103,618	0

Nonregulated CPE is stated at cost. The company provides for depreciation on a straight-line basis at an annual rate of depreciation which will amortize the cost of the equipment over its estimated useful life. The leasing of nonregulated customer premises equipment does not involve the joint or shared use of assets in the provision of regulated and nonregulated services.

Following is a summary of net income from nonregulated investments for the year ending December 31, 19×9:

	Deregulated		
	CATV	CPE	Total
Income from operations	$32,425	$9,151	$41,576
Expenses	18,834	2,840	21,674
	13,591	6,311	19,902

Income tax expense totaled $3,556, of which $2,883 was applicable to CATV operations and $673 was applicable to CPE leasing activities.

5. Deferred Charges:

The balance consists of the unamortized portion of the unprovided for loss in service value of plant retired.

Description	Date	Original Balance Net of Income-Tax Savings	Unamortized Balance	
			19X9	19X8
Aerial Plant	1/1/X7..	50,000	40,000	45,000

The Public Utilities Commission granted the company permission to amortize this loss over a ten-year period net of income tax savings of $10,542.

6. Investment In Telephone Plant:

Telephone plant in service and under construction is stated at cost. Listed below are the major classes of the telephone plant as of December 31, 19×9 and 19×8:

	19X9	19X8
Land	$64,601	64,601
Motor vehicles	76,417	76,043
Special purpose vehicles	58,908	64,679
Other work equipment	43,582	40,022
Buildings	564,509	500,267
Furniture and office equipment	87,045	79,039
Central office equipment	3,171,162	2,746,871
Customer premises wiring	64,231	73,915
Poles, cables, and wire	2,458,895	2,300,411
Telecommunications plant in service—unclassified	811,950	704,705
	7,401,300	6,650,553

The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life. Such provision as a percentage of the average balance of telephone plant in service was 7.2 percent in 19×9 and 7.1 percent in 19×8. Individual plant depreciable rates are as follows:

Motor vehicles	25%
Special purpose vehicles	13%
Other work equipment	16%
Buildings	4%
Furniture and office equipment	10%
Central office equipment	4%
Customer premises wiring	10%
Outside plant—aerial and buried cable	5%
Outside plant—pole lines and aerial wire	20%

7. Telephone Plant Adjustment:

This adjustment represents the difference between the amount paid for the telephone plant plus associated expenses and the original cost of the plant less the associated depreciation. The company is amortizing the adjustment over a 19½ year period in accordance with the Public Utility Commission. Annual amortization amounts to $9,000.

8. Mortgage Notes:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt:

	19X9	19X8
5% Notes due December 31, 1996	$4,739,304	$4,274,104
Less: Current Maturities	146,646	145,998
	$4,592,658	$4,128,106

As of December 31, 19X9, there were no unadvanced funds.

Principal and interest installments on the above notes are due quarterly in equal amounts of $63,200. The maturities of long-term debt for each of the five years succeeding the balance sheet date is as follows:

1990	$146,649
1991	$153,839
1992	$155,743
1993	$143,000
1994	$139,976

The long-term debt agreements contain restrictions on the payment of dividends or redemption of capital stock. The terms of the Mortgage Agreement require the maintenance of defined amounts of member's equity and working capital after payment of dividends. Under these provisions approximately $293,688 of retained earnings was available for payment of dividends at December 31, 19X9.

9. Pension Plan:

Substantially all employees of the company are covered by the XYZ Retirement and Security plan, a defined benefit multiemployer plan. Pension expense for the years ended 19X9 and 19X8 was $12,000.00 and $11,500.00, respectively.

10. Income Taxes and Deferred Income Taxes:

The company uses a different method of depreciation on plant additions for income tax purposes. As provided by the Economic Recovery Act of 1981, the company has elected to use the Accelerated Cost Recovery System (ACRS) method of depreciation for plant additions after 1980. In addition to the different depreciation practices for book and tax purposes, the company does not capitalize extraordinary maintenance and retirements and cost of removal charges for tax purposes. Provision is made in the statements of income and retained earnings for the taxes deferred as a result of the above timing differences. The differences between accounting for book and tax purposes pertaining to income taxes and investment tax credits are accounted for using the normalization method of accounting, as is required for property placed in service after December 31, 1980, under the Economic Recovery Tax Act of 1981.

11. Investment Tax Credits:

The company follows the practice of recording investment tax credit as a deferred income, to be amortized over the life of the assets providing the credit as required by the Public Service Commission. Accordingly, Federal income tax expense at December 31, 19X9, was reduced $7,400 by the investment tax credit amortization.

12. Commitments:

The company has executed contracts for construction programs for approximately $225,000 at December 31, 19X9. The amount unpaid against these commitments at December 31, 19X9 is $185,000.

Appendix C—Sample Management Letter—Electric and Telephone

REA requires that CPAs auditing REA borrowers provide a management letter in accordance with § 1773.34.

REA requires that this letter bear the same date as the auditor's report and be addressed to the borrower's board of directors. The CPA is required to sign the auditor's report, report on compliance, report on internal controls, and management letter.

Certified Public Accountants, 1600 Main Street, City, State 24105

March 2, 19X0

Board of Directors

We have examined the financial statements of (company) for the years ended December 31, 19X9 and 19X8, and have issued our report thereon dated March 2, 19X0.

Comments

Statement that examination procedures specified in 7 CFR part 1773 have been performed.

Statement as to whether any special report, summary of recommendations or similar communications was furnished to the borrower's management during the course of the audit or during interim audit work.

Required Comments on Specified Financial and Accounting Matters (as detailed in § 1773.34).

Accounting and Records
Materials Control
Compliance with REA Mortgage
Reports to REA
Service Contracts
Income Tax Status
Related Party Transactions
Depreciation Rates
Deferred Debits and Credits
Insurance Certifications

Other Comments and Recommendations

This letter supplements the information included in the financial statements and notes. It is intended solely for the use of management, the Rural Electrification Administration, and supplemental lenders and should not be used for any other purpose.

In accordance with the terms of our audit agreement, we are enclosing copies of the audit report, report on compliance, report on internal controls, and management letter for each member of the Board, the Manager, and other required distribution. Two copies of the audit report, report on compliance, report on internal controls, and management letter should be transmitted to the REA and one copy transmitted to each supplemental lender, where applicable.

Certified Public Accountants

Appendix D—Sample Compliance Schedules—Electric

Exhibit 1—Schedule of Unapproved Advances

CENTER COUNTY SCHEDULE OF UNAPPROVED ADVANCES ("AB6" LOAN)

[December 31, 19X9]

Advance				F.R.S. No.	Lender	Loan application code	Financing document code	Project identity	Reason
Date	Amount	Note No.	Budget purpose						
5/3	35,000.00	02010	#1	136	REA	307	INV W/O 4-X9	Albion Pt. (260-280)	A
6/15	15,000.00	N/A	#1	137	CFC	402	CT. 54X	Noble Subst.	B
7/18	20,000.00	02010	#1	138	REA	None	INV W/O 6-X9	Nuby Sub. Pts. (450-358)	C
Sub-total	70,000.00								
Less: CFC funds	15,000.00								
Amount to be remitted to REA	55,000.00								

A. The code on the REA 219 does not agree with the loan application code on REA Form 740c and the Two-Year Work Plan. This project was not included in the Work Plan and no amendment authorizing the project could be located.

B. The project, included in the REA Form 740c and the Work Plan, cost submitted to REA for approval and advance exceeded 130% of the estimated cost to the REA Form 740c. The $15,000.00 represents the excess over 130%. No amendment executed.

C. This project was submitted to REA for approval as Minor Construction on a separate REA Form 219. This project, however, had been included as a separate item in the REA Form 740c and Work Plan (Loan Application Code No. 203).

Dated: June 29, 1990.

Gary C. Byrne,

Administrator.

[FR Doc. 91-7828 Filed 4-4-91; 8:45 am]

BILLING CODE 3410-15-M

federal register

Friday
April 5, 1991

Part III

Department of Education

National Program for Mathematics and Science Evaluation; Inviting Applications for New Awards for Fiscal Year 1991; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.167A-1]

National Program for Mathematics and Science Education; Inviting Applications for New Awards for Fiscal Year 1991

Purpose of Program: To award grants to support projects of national significance designed to improve the quality of teaching and instruction in mathematics and science in the nation's elementary and secondary schools, and increase the access of all students to that instruction.

Eligible Parties: State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations, and professional science, mathematics, and engineering societies and associations).

Deadline for Transmittal of Applications: 6–10–91

Deadline for Intergovernmental Review: 8–2–91.

Applications Available: 4–19–91.

Available Funds: $2,000,000 (est.).

Estimated Range of Awards: $300,000–$750,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 4.

Project Period: Up to 36 months.

Budget Period: 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 755.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 755.12(a)(3), the Secretary gives an absolute preference to applications for projects that build upon and add to a project that is already developed and disseminated.

Invitational Priority: Within the absolute priority the Secretary is particularly interested in applications that build upon existing national curricular reform efforts that are widely supported by the mathematics and science professional communities. Existing national reform projects are encouraged to propose activities that would assist and enhance State and local projects under the Eisenhower Mathematics-Science Education (State Grants) Program, especially at the elementary and middle school levels.

However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications that meet the absolute priority.

Selection Criteria: Under 34 CFR 755.30, the Secretary is authorized to distribute an additional 10 points among the criteria described in § 755.32 to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Evaluation plan (§ 755.32(d)). Five (5) additional points will be added for a possible total of 15 points for this criterion.

National significance (§ 755.32(f)). Five (5) additional points will be added for a possible total of 25 points for this criterion.

For Applications or Information Contact: Allen A. Schmieder, U.S. Department of Education, Fund for the Improvement and Reform of Schools and Teaching, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524. Telephone: (202) 219–1496. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2992.

Dated: March 29, 1991.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 91–7992 Filed 4–4–91; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
April 5, 1991

Part IV

Department of Education

National Program for Mathematics and Science Education; Inviting Applications for New Awards for Fiscal Year 1991; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.168C]

National Program for Mathematics and Science Education; Inviting Applications for New Awards for Fiscal Year 1991

Purpose of Program: To award grants to support projects of national significance designed to improve the quality of teaching and instruction in mathematics and science in the nation's elementary and secondary schools, and increase the access of all students to that instruction.

Eligible Parties: State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations and professional science, mathematics, and engineering societies and associations).

Deadline for Transmittal of Applications: 6–10–91.

Deadline for Intergovernmental Review: 8–2–91.

Applications Available: 4–19–91.

Available Funds: $2,500,000 (est.).

Estimated Range of Awards: $150,000–$500,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 7–12.

Project Period: Up to 36 months.

Budget Period: 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 755.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3), 34 CFR 755.12(b) and 34 CFR 755.11(b)(3), the Secretary gives an absolute preference to applications for projects that improve curricula in mathematics and science, including the use of new technologies.

Invitational Priority: Within the absolute priority the Secretary is particularly interested in applications that meet the following invitational priority:

Regional Mathematics and Science Education Consortia. The Secretary encourages applications for projects to form regional (multi-state) consortia to assist SEAs and LEAs in systematically implementing major K–12 curriculum reform and restructuring programs in mathematics and science education. Applicants are encouraged to propose consortia projects that would develop regional networks that include Eisenhower State Coordinators; directors of exemplary mathematics and science projects funded by the National Science Foundation, the Department of Education and the Department of Energy; State mathematics and science supervisors; and other recognized experts in mathematics and science education. Projects should also draw upon existing networks and organizations with expertise in mathematics and science education.

Projects should identify and disseminate high quality, instructional materials, teaching methods, and assessment tools for elementary and secondary school mathematics and science education and provide training and other technical assistance in their use. Technical assistance activities may also include leadership conferences, training programs, or other assistance, such as making available expert consultants, to strengthen State and local efforts to improve mathematics and science education, including local reform projects.

Consortia projects should, as appropriate, make use of those curriculum improvement initiatives that are highly regarded by the scientific and educational communities such as the *Scope, Sequence, and Coordination* program of the National Science Teachers Association; *Project 2061—Science for All Americans* program of the American Association for the Advancement of Science; programs related to the *Curriculum, Evaluation and Professional Teaching Standards for School Mathematics* of the National Council of Teachers of Mathematics; and the various reform programs of the Mathematical Sciences Education Board.

Special attention should be given to increasing the extent to which schools serve the needs of groups that are underrepresented in, and underserved by, mathematics and science education, including, but not limited to, females, minorities, individuals with limited-English proficiency, individuals with disabilities, migrants, and gifted and talented children from within such groups.

Consortium activities should be clearly documented in order to evaluate the effectiveness of the project.

However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications that meet the absolute priority.

Selection Criteria: Under 34 CFR 755.30, the Secretary is authorized to distribute an additional 10 points among the criteria described in § 755.32 to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Notional significance (§ 755.32(f)). Ten (10) additional points will be added for a possible total of 30 points for this criterion.

For Applications or Information Contact: Dr. Allen A. Schmieder, U.S. Department of Education, Fund for the Improvement and Reform of Schools and Teaching, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524. Telephone: (202) 219–1496. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2992.

Dated: March 29, 1991.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 91–7993 Filed 4–4–91; 8:45 am]

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federal register

Friday
April 5, 1991

Part V

The President

Proclamation 6267—National Former Prisoner of War Recognition Day, 1991 and 1992

Part V

The President

Federal Register
Vol. 56, No. 66
Friday, April 5, 1991

Presidential Documents

Title 3—

The President

Proclamation 6267 of April 3, 1991

National Former Prisoner of War Recognition Day, 1991 and 1992

By the President of the United States of America

A Proclamation

The recent war in the Persian Gulf resulted in a great and historic victory for the United States and its coalition partners. While we celebrate the liberation of Kuwait and the triumphant return of our courageous troops, we also pause to remember, with solemn pride and appreciation, those service members who bore heavy costs in this conflict. Among them are Americans who were held as prisoners of war.

The worst kinds of treatment brought out the best in those American service men and women who were captured during the fighting in the Persian Gulf region. Each upheld the high standards of courage and conduct that we have come to expect of our military personnel. Their faith in Almighty God, their love of family, and their deep sense of patriotism and self-discipline have been an inspiration to us all.

The recent experiences of U.S. service members captured in the Persian Gulf offer a poignant reminder of the tragic circumstances endured by thousands of American POWs throughout our Nation's history. During World War II, the Korean conflict, the Vietnam War, and other conflicts, many American prisoners of war were subjected to brutal treatment and torture by their captors in violation of fundamental standards of morality and international law. Many did not survive. Yet, despite the suffering inflicted by their captors, American POWs have demonstrated an unfailing devotion to duty, honor, and country. Their bravery will never be forgotten by the American people.

In 1985, the Congress directed the Department of Defense to issue a special medal to all former American prisoners of war. Through the Prisoner of War Medal, as well as our observance of "National Former Prisoner of War Recognition Day," we recognize those American service members and veterans who have been subjected to capture. Recalling the experiences of these Americans, we also renew our commitment to securing the release of any U.S. servicemen and civilians who may still be held against their will, to obtaining the fullest possible accounting of the missing, and to repatriation of all recoverable American remains.

The Congress, by Public Law 102–23, has designated April 9, 1991, and April 9, 1992, as "National Former Prisoner of War Recognition Day" and has authorized and requested the President to issue a proclamation in observance of these occasions.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim April 9, 1991, and April 9, 1992, as National Former Prisoner of War Recognition Day. I call upon all Americans to join in remembering former American prisoners of war and their families, who have suffered at the hands of our enemies. I also call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of April, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 91-8264
Filed 4-4-91; 10:20 am]
Billing code 3195-01-M

Reader Aids

Federal Register

Vol. 56, No. 66

Friday, April 5, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

13261-13390.....1
13391-13574.....2
13575-13748.....3
13749-14008.....4
14009-14186.....5

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Presidential Determinations:
No. 91-24 of March 11, 1991.....13261
No. 91-25 of March 21, 1991.....13263
Proclamations:
6266.....13391
6267.....14185

5 CFR

315.....13575
316.....13575

7 CFR

2.....14009
52.....13854
401.....13576
916.....13710
917.....13710
958.....13710
1001.....13393
1002.....13393
1007.....13577
1948.....13265
Proposed Rules:
51.....14027
271.....13601
278.....13601
800.....13420
810.....13420
907.....13290
908.....13290
1001.....13603
1002.....13603
1004.....13603
1005.....13603
1006.....13603
1007.....13603
1011.....13603
1012.....13603
1013.....13603
1030.....13603
1032.....13603
1033.....13603
1036.....13603
1040.....13603
1044.....13603
1046.....13603
1049.....13603
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1094.....13603
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1097.....13603
1098.....13603
1099.....13603
1106.....13603
1108.....13603
1120.....13603
1124.....13603
1126.....13603
1131.....13603
1132.....13603
1134.....13603
1135.....13603
1137.....13603
1138.....13603
1139.....13603
1413.....13787
1773.....14154

9 CFR

11.....13749
78.....13750
Proposed Rules:
317.....13564
381.....13564

10 CFR

2.....14151

12 CFR

226.....13751
326.....13579
Proposed Rules:
334.....13290
607.....13424
618.....13424

13 CFR

107.....13582

14 CFR

39.....14010-14014
71.....13526, 13583, 14015, 14016
75.....14016
121.....13756
Proposed Rules:
39.....14031
71.....13712
107.....13552
108.....13552

15 CFR

770.....13265
771.....13265
773.....13265
774.....13265

17 CFR

30.....14017

19 CFR

4.....13394

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List April 2, 1991

Public Laws

102d Congress, 1st Session, 1991

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 102d Congress, 1st Session, 1991.

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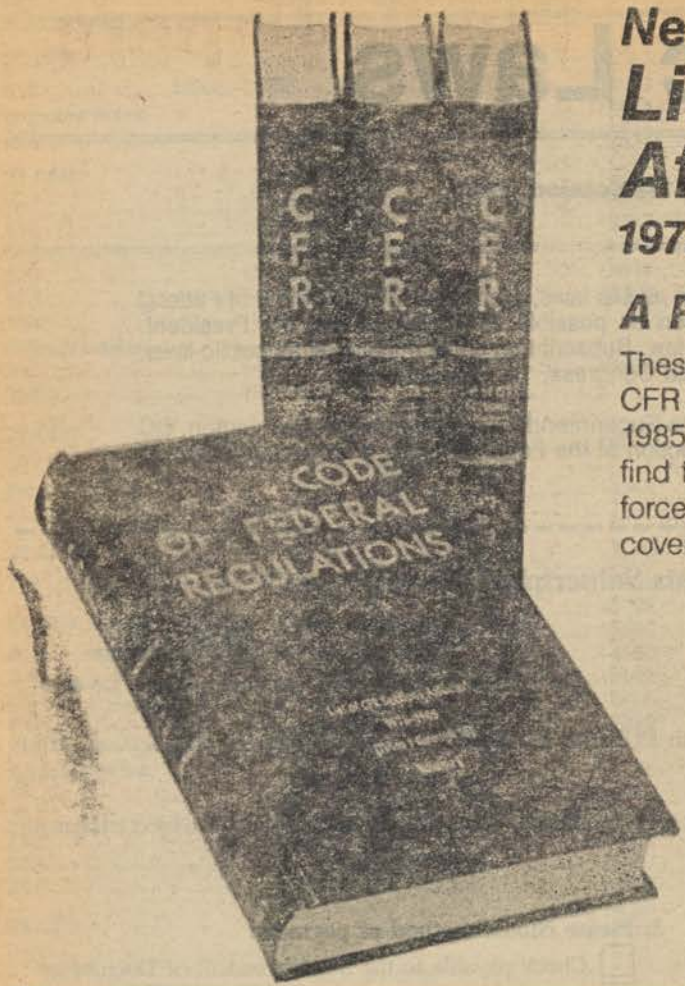

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1973-1985

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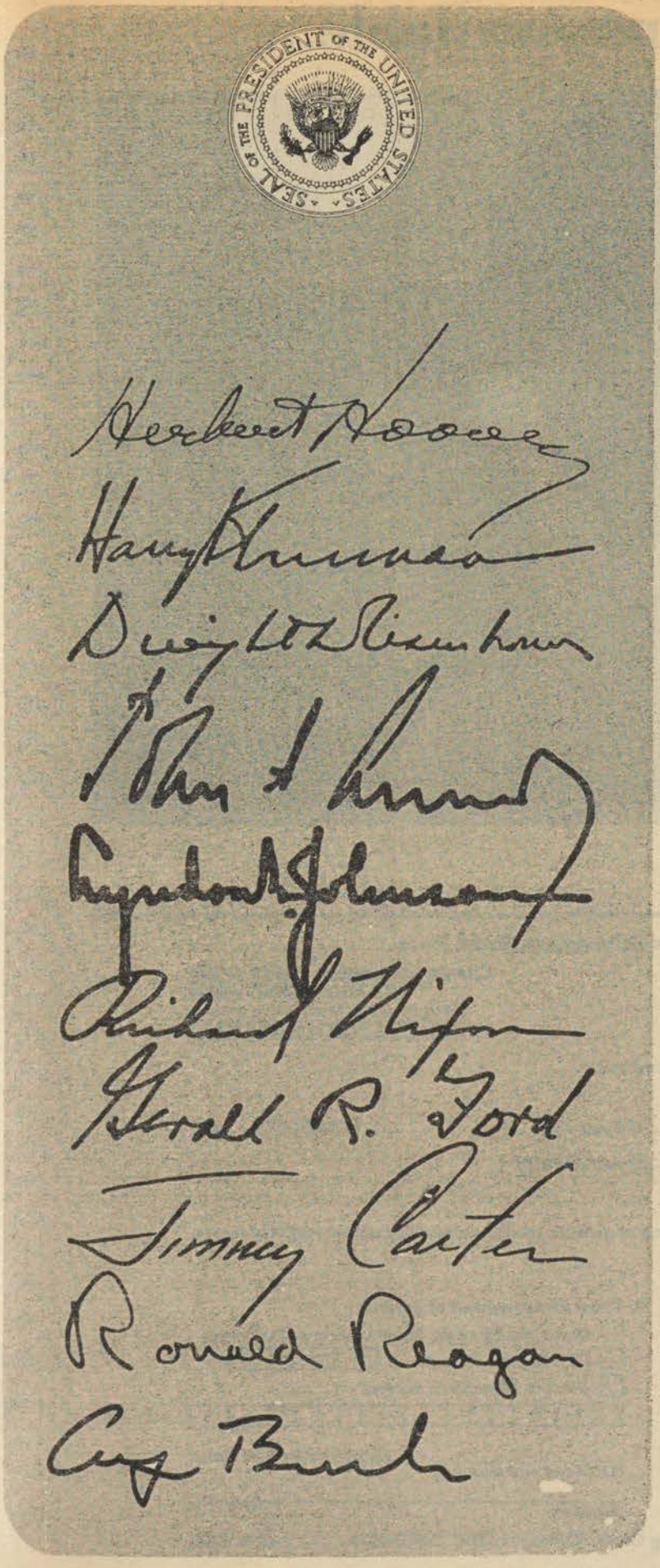

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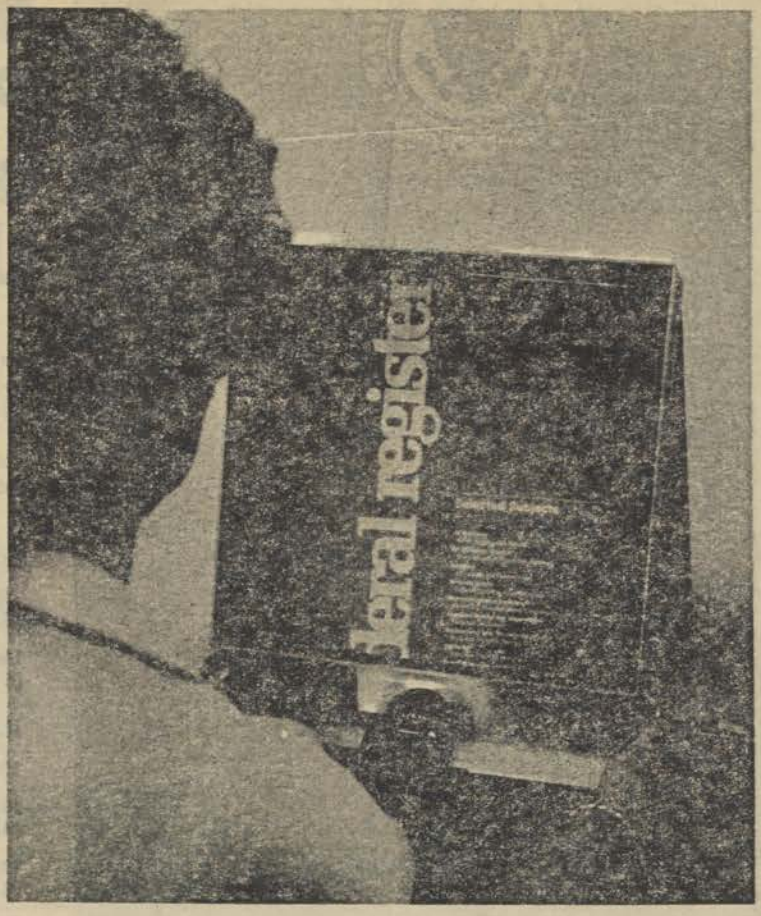

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